

- (14) a possible direction that Mr. Booth would like because
 (15) he, in turn, also wanted to see that that relationship
 (16) was maintained with Mr. Dille.
 (17) Q Did Mr. Dille explain to you that Mr. Booth was not
 (18) willing to wait while Mr. Dille sought a waiver of the
 (19) cross-ownership rules so that he could acquire the
 (20) station himself?
 (21) A That is correct.
 (22) Q That is correct?
 (23) A That is correct.
 (24) Q And did Mr. Dille define what this relationship would
 (25) look like?

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- (1) A Not at that time.
 (2) Q Did he discuss with you at that time his proposal that
 (3) there would be an agreement whereby his children could
 (4) buy out your interest?
 (5) A Not at that time.
 (6) Q Did he describe purchase terms for WRBR or anything like
 (7) that?
 (8) A Not at that time. Oh, yes. Excuse me. He did.
 (9) Q What did he say about that?
 (10) A He said that Mr. — Mr. Booth was agreeable to the
 (11) purchase plans that were laid out and ultimately resulted
 (12) in — in the deal.
 (13) Q So had Mr. Dille, as you understood it, already
 (14) negotiated the purchase price?
 (15) A He had already negotiated the purchase price.
 (16) Q And had he also negotiated the terms under which that
 (17) purchase price would be paid?
 (18) A That's correct.
 (19) Q And did you understand those terms to involve seller
 (20) financing; that is to say, a note would be given to Mr.
 (21) Booth and the station would be paid for over time?
 (22) A At that particular meeting, I'm not sure all of that we
 (23) went into. We just vaguely touched on what it would be.
 (24) Q What, if anything, was Mr. Dille asking you to agree to
 (25) at that lunch?

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- (1) A Nothing other than just interest.
 (2) Q And did you say you were interested?
 (3) A Well, I said I would certainly think about it.
 (4) Q Did you mention to Mr. Dille in that lunch that you were
 (5) in the process of a merger yourself?
 (6) A Yes. I don't know if it was at lunch, but I think he
 (7) knew at that point that we were in the process of a
 (8) merger. Whether it happened at that lunch or before, I'm
 (9) not sure.
 (10) Q Was your station or was Hicks Broadcasting having
 (11) financial difficulties at that point in time?
 (12) MR. JONKER: I object to the form of the
 (13) question. I don't know what the "financial difficulties"
 (14) means.
 (15) A It was not financial difficulties. We were working on a
 (16) lot of different options.
 (17) Q What do you mean?
 (18) A Sale. We were talking to other parties for merger. We
 (19) were talking about refinancing because of Bay Bank's
 (20) desire to get out of the broadcast business. We have
 (21) touched on that. We have gone through that.
 (22) Q Right. Do you recall an audit having been done of Hicks
 (23) Broadcasting?
 (24) A Uh-huh.
 (25) Q And the audit report had not yet been prepared?

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- (1) A The audit report had not yet been prepared.
 (2) Q Do you recall some discussion that if the audit report
 (3) was prepared and finalized and presented to Bay Bank,
 (4) that Hicks Broadcasting would be in default?
 (5) A No.
 (6) Q In any event, how did your lunch with Mr. Dille end?
 (7) A That we would talk about it again.
 (8) Q Did you?
 (9) A Yes.
 (10) Q When?
 (11) A Maybe a couple of weeks later.
 (12) Q Where?
 (13) A In Schoolcraft.

- (14) Q In person?
 (15) A Yes.
 (16) Q Where in —
 (17) A A little restaurant, a little breakfast.
 (18) Q Who was present?
 (19) A John Dille and myself.
 (20) Q Anyone else?
 (21) A No.
 (22) Q How long did that meeting last?
 (23) A Oh, an hour, hour and a half.
 (24) Q What was discussed?
 (25) A Just more of the South Bend proposal and whether I had

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- (1) thought about anything further, do I still have interest
 (2) in this.
 (3) Q Had you thought about it further?
 (4) A Yeah. I thought it was interesting enough that we
 (5) proceed.
 (6) Q Had you up to that point discussed it with Ed Sackley?
 (7) A Not at that point, I don't believe.
 (8) Q Had you discussed it with anyone from Airborne Group at
 (9) that point?
 (10) A No.
 (11) Q At this meeting in Schoolcraft, you said you were
 (12) interested in pursuing it.
 (13) A Pursuing it, right.
 (14) Q Did Mr. Dille present any documents to you at that time?
 (15) A I don't recall. He might have at that point sketched out
 (16) what his joint operating agreement was. I think that's
 (17) what it was, because, again, I was unaware that he had
 (18) had that. And I was interested in how that worked.
 (19) Q What did he say about how it worked?
 (20) A Well, he showed me the documents on how it worked, which
 (21) are the documents that are in the original agreement.
 (22) Q Showing you the document that's been marked as Exhibit
 (23) 11, is that the joint sales agreement that he showed you?
 (24) A This — yes, I believe it.
 (25) Q What else did he say in that meeting?

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- (1) A I don't recall anything further.
 (2) Q Did he discuss with you what capital contributions you
 (3) would have to make to become a part of this entity?
 (4) A I'm not sure that at that point we were talking about
 (5) that. The terms of the radio station didn't necessitate
 (6) any capital contribution for the first six months of
 (7) operation.
 (8) Q Did he talk about the fact that Booth would want a
 (9) \$50,000 deposit put into escrow?
 (10) A I don't know whether it was that meeting.
 (11) Q At some point?
 (12) A Somewhere, sure.
 (13) Q Anything else you can remember being discussed in
 (14) Schoolcraft?
 (15) A No.
 (16) Q What was supposed to happen next?
 (17) A I suggested that maybe we sit down with Rick Brown at
 (18) that point and explore it in more detail.
 (19) Q Rick Brown was a director of Hicks Broadcasting Company
 (20) at that time; is that correct?
 (21) A That's correct.
 (22) Q Did you, in fact, sit down with Rick Brown?
 (23) A Yes.
 (24) Q When?
 (25) A Again, maybe a week or two later.

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- (1) Q Are you able to put a month on these discussions?
 (2) A No.
 (3) Q Are you able to say —
 (4) A I don't have those records.
 (5) Q Are you able to say how long before the August 31st
 (6) merger that these discussions occurred?
 (7) A The Rick Brown discussions?
 (8) Q Right.
 (9) A No.
 (10) Q You met at Mr. Brown's offices?
 (11) A Correct.
 (12) Q You and Mr. Dille?
 (13) A Mr. Dille and Mr. Brown.

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- (14) Q Anyone else besides you and Mr. Dille and Mr. Brown?
 (15) A No.
 (16) Q How long did the meeting last?
 (17) A A couple hours.
 (18) Q What was discussed at the meeting?
 (19) A I think Rick Brown listened to the proposal at that
 (20) point. We talked about possible -- a possible structure.
 (21) Q What was the proposal at that point?
 (22) A The proposal was -- is the proposal that is the
 (23) proposal -- or is the deal. The proposal didn't change.
 (24) Q What was it?
 (25) A I mean, other than some minor.

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- (1) Q So you would form an entity with Mr. Dille's children?
 (2) A I would form an entity with Mr. Dille's children, right.
 (3) Q Did you discuss the fact that \$50,000 would be needed as
 (4) a deposit for this deal?
 (5) A I'm not sure that that even came up at that meeting.
 (6) Q Did Mr. Dille say that he would put up all of the money
 (7) for that deposit?
 (8) A No.
 (9) Q Did he say that he would put up his children's share of
 (10) it and that he would make sure that his children
 (11) guaranteed your portion of it so you would suffer no loss
 (12) on the \$50,000 deposit?
 (13) A No.
 (14) Q When did that agreement come about?
 (15) A That came -- agreement was never agreed to, to my
 (16) knowledge. I supplied a letter of credit for my portion.
 (17) Q And you had a side agreement with Mr. Dille's children
 (18) wherein they agreed that they would indemnify you against
 (19) any losses in connection with that letter of credit?
 (20) A That may have come about with Mr. Brown's transactions.
 (21) Q Did you know Mr. Dille was paying all the money that
 (22) consisted of his children's portion?
 (23) A I didn't ask Mr. Dille where his children were getting
 (24) the money.
 (25) Q You understood that?

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- (1) A No.
 (2) Q You said Mr. Brown listened to the proposal and you
 (3) discussed possible structures. What structures did you
 (4) discuss?
 (5) A I don't know that there were a great many different
 (6) structures, other than just a review. This was his first
 (7) opportunity to look at it.
 (8) Q Now, Mr. Brown knew that you were also negotiating at
 (9) that point for the merger, correct?
 (10) A That's correct.
 (11) Q Did you have a written merger agreement or signed merger
 (12) agreement already at that point?
 (13) A I don't believe it, no.
 (14) Q The merger agreement was signed April 7th of 1993,
 (15) correct. This was the agreement of merger and plan of
 (16) reorganization?
 (17) A Well, then this whole thing might have been moved back
 (18) into -- I'm not really sure of the dates.
 (19) Q You understand the merger actually took place in August?
 (20) A Right.
 (21) Q The plan of merger, however, was made as of April 7th?
 (22) A Right.
 (23) Q Earlier your testimony was your conversations with Mr.
 (24) Dille occurred, I thought you said, in the summer --
 (25) A Yes.

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- (1) Q (Continuing) -- of 1993?
 (2) A Well, in the spring of '93. I'm not sure. Again, I
 (3) don't have those records.
 (4) Q When do you believe your meeting with Mr. Brown occurred?
 (5) A Well, within a three to four-week period after that.
 (6) Q Is it your belief that your meeting with Mr. Brown
 (7) occurred before or after the plan of merger?
 (8) A I think it was before, if I recall.
 (9) Q How did the meeting with Mr. Brown end? What was
 (10) supposed to happen next?
 (11) A Well, he would -- Rick Brown and I were going to get
 (12) together to discuss it further.
 (13) Q Did you?

- (14) A Yes
 (15) Q When?
 (16) A Maybe a week later.
 (17) Q Are you able to put a month on this at this point?
 (18) A (Shaking negatively.)
 (19) Q Where did you meet with Mr. Brown?
 (20) A At his office.
 (21) Q Anyone else present?
 (22) A No.
 (23) Q How long did the meeting last?
 (24) A I don't know.
 (25) Q What was discussed?

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- (1) A I think Mr. Brown had gotten with -- I think at that time
 (2) maybe he had gotten with counsel for Mr. Booth and began
 (3) probing it from that area, looking at it, I think.
 (4) Q And what did he say about getting together?
 (5) A I don't know. At this point I kind of turned that over
 (6) to him, to proceed with Mr. Booth's counsel.
 (7) Q At some point did Mr. Brown tell you that under the
 (8) corporate opportunity doctrine you needed to discuss this
 (9) opportunity to acquire WRBR with the other directors of
 (10) Crystal Radio Group?
 (11) A Yes.
 (12) Q When did he tell you that?
 (13) A Prior to a directors meeting at our offices on Jennings
 (14) Drive.
 (15) Q Is that the first time that he told you that under the
 (16) corporate opportunity doctrine you had to disclose this
 (17) opportunity?
 (18) A Well, that's the first time he suggested that, yes.
 (19) Q I'm going to show you a document that was marked at an
 (20) earlier deposition as Exhibit 13. It's an August 17th,
 (21) 1993 memo from John Dille to John Booth. Have you seen
 (22) that memo before?
 (23) A No, I don't recall.
 (24) Q That memo indicates, the first paragraph, "As we've
 (25) discussed, Dave Hicks, a broadcaster in Kalamazoo, has

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- (1) indicated his intent to become the controlling interest
 (2) in an entity which would acquire WRBR. As we also
 (3) discussed, my three children would each hold a third of
 (4) minority shares, there being an arrangement, option,
 (5) agreement to purchase from Hicks his shares when and if
 (6) that became possible."
 (7) Is it true that as of August 17th, 1993 you had
 (8) indicated your intent to become the controlling interest
 (9) in an entity which would acquire WRBR?
 (10) A The dates again?
 (11) Q August 17th, 1993.
 (12) A I don't know. I don't know who put that on there. I
 (13) don't know that that's --
 (14) Q I can represent to you, based on deposition testimony,
 (15) that John Dille put that date on there.
 (16) A If he put it on there, then those are the dates.
 (17) Q And you would agree with him -- or you would agree --
 (18) A He has a better recollection of those dates than I do.
 (19) Q And as of August 17th, 1993, had you also agreed that
 (20) there would be an arrangement, option or agreement for
 (21) his children to purchase from you your shares when and if
 (22) that became possible?
 (23) A There was a buy-out -- the first right of refusal
 (24) buy-out, right.
 (25) Q When did you first discuss that?

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- (1) A I think Rick Brown discussed that with -- in the
 (2) structure and discussed it with me at a later date.
 (3) Q Under that right of buy-out, Mr. Dille's children had the
 (4) right to buy you out, correct?
 (5) A Under the -- excuse me. I was reading while you were
 (6) talking.
 (7) Q That's okay. Mr. Dille's children had the right to buy
 (8) you out, but you did not have the right to buy them out,
 (9) correct?
 (10) A I believe that was the way it was structured.
 (11) Q Why?
 (12) A I don't know. I don't know what the structure -- without
 (13) getting it out and reading it, I don't know.

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- (14) Q Well, we'll do that in a minute.
 (15) A Okay.
 (16) Q But is that the structure, is that the proposal that Mr. Dille made to you from the beginning?
 (17) A Yes.
 (18) Q In fact, didn't Mr. Dille tell you that what he really wanted was to have a situation where the entity would hold the station until he could own it himself?
 (19) A No. That wasn't really the purpose. I think the purpose was that he was looking for an investment opportunity for his children. And I think that was his main desire, knowing at this point that the opportunity wasn't there

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- (1) for him to buy this.
 (2) Q So he discussed from the beginning that his children would have the opportunity to buy you out?
 (3) A Yes.
 (4) Q Now, did Mr. Dille discuss with you that under the FCC regulations his children could not own a majority interest in the company that would be acquiring WBBR?
 (5) A I'm not sure of that discussion, but I know his children were also involved in other business dealings of his that maybe precluded them. I didn't get into a lot of detail with him on that.
 (6) Q Did you disclose your discussions with John Dille to anyone from the Airborne Group?
 (7) A Yes.
 (8) Q Prior to the merger on August 31st, 1993?
 (9) A Yes.
 (10) Q Who did you disclose the discussions with John Dille to?
 (11) A To Mr. Sackley.
 (12) Q When did you disclose the discussions with Mr. Dille to Mr. Sackley?
 (13) A Numerous times throughout -- I have no idea on dates.
 (14) Q Before the merger?
 (15) A Before the merger Mr. Sackley was aware, I believe. He certainly was aware when -- his first meeting with John Dille. I'm not sure if that was after the merger or

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- (1) before the merger. Because he was in a temporary situation at Jennings Drive location.
 (2) Q And do you recall whether he moved to the Jennings Drive location before or after the merger?
 (3) A Before the merger.
 (4) Q You said you told Mr. Sackley about this arrangement many times?
 (5) A Many times.
 (6) Q Do you know the first time?
 (7) A No.
 (8) Q Are you certain that you told him for the first time before the merger?
 (9) A I would have to see the sequence of all the dates and line them up. I can't remember all of them. There were so many. But there was nothing to -- nothing to hide. If they came at that particular time, I would be -- if it was before or after, or whenever it was I told him, he was aware of it.
 (10) Q Where was he the first time you told him about this opportunity?
 (11) A At the Jennings Drive location.
 (12) Q Who was present?
 (13) A Ed Sackley and myself.
 (14) Q Where?
 (15) A I think probably in my office.

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- (1) Q How long did the discussion last?
 (2) A Just as a matter of fact type conversation.
 (3) Q What did you tell Mr. Sackley?
 (4) A About the South Bend transaction and I thought I was going to proceed with it.
 (5) Q What did you tell him your role would be?
 (6) A I told him my role -- there was a joint operating agreement, as far as the operation of the radio station would be with the existing Dille operation. And we talked a little about -- I guess I expressed the fact that there was really not much time commitment from myself, as he knew I was interested in this property before, and I shared it with him. I guess that was the

- (14) conversation.
 (15) Q Did you tell Mr. Sackley in that conversation that you would be really just holding the station for John Dille?
 (16) A No.
 (17) Q Did you tell him --
 (18) A That wasn't -- that wasn't what I was doing.
 (19) Q Did you ever tell Ed Sackley that you would be holding the station until it could be transferred to John Dille?
 (20) A No.
 (21) Q Did you ever tell any of the members of the board of directors of Crystal Radio Group?
 (22) A The members of the board of directors, I think, were

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- (1) concerned about the structure of this. They were concerned about time. And if any statement of that sort was made, it was pertaining to time commitment, attempting to reassure the directors that there was not considerable time commitment on my part on this. Along the way, many times in my discussions with Mr. Sackley I point blank asked, "Do you have a problem with this?" And each time he would say no.
 (2) Q In terms of the time commitment, did you represent to Mr. Sackley that there would not be a significant time commitment?
 (3) A I certainly did.
 (4) Q Did you tell him who would be managing the station?
 (5) A I indicated at that point that -- I can't remember whether we had hired a manager or not, but a manager would be hired.
 (6) Q And as a result, you would not be required to have much hands-on activity at the station?
 (7) A Other than what was legally obligated for me to do.
 (8) Q Did you discuss with Mr. Sackley or any member of the board their concerns about you getting involved in a financial commitment that would limit your ability to meet your financial obligations to Crystal?
 (9) A That was part of a discussion at a board meeting.
 (10) Q I'll come back to that board meeting in a minute.

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- (1) Directing your attention to the document that was previously marked as Exhibit 9, that was the confidential agenda for the September 28, 1993 board of directors meeting, correct?
 (2) A Uh-huh.
 (3) Q And that was a document you reviewed with Mr. Sackley before the meeting, correct?
 (4) A It's possible, yes.
 (5) Q It's possible or it's true?
 (6) A Well, I guess it is. Yeah, we reviewed all the agenda items.
 (7) Q And there was a paragraph entitled "Outside Ownership and Quasi Ownership of Additional Broadcast Properties," correct?
 (8) A Right.
 (9) Q And it says, "Dave has indicated discussions have taken place involving possible involvement by him personally in the transfer and assignment of the license of another broadcast facility or facilities"; is that correct?
 (10) A Correct.
 (11) Q It says, "This would be undertaken in connection with a planned subsequent transfer to a third party," correct?
 (12) That's what the document says?
 (13) A If that's what it says.
 (14) Q Who was the subsequent transfer to third party?

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- (1) A I don't know. I didn't write that.
 (2) Q You read it?
 (3) A I read it, but I didn't write it.
 (4) Q Did you believe it was incorrect?
 (5) A I didn't recall at the time that was in there, period.
 (6) Q Did you question it?
 (7) A No.
 (8) Q You understood this was going to the board of directors of Crystal Radio Group?
 (9) A Yes. But I didn't write this.
 (10) Q Do you recall that Ed Sackley expressed concern to you about whether it was legal under the FCC regulations for you to own the station with the intent to transfer it to

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- (14) a third party?
 (15) A The -- you're reading a different intent. There is a --
 (16) there is a first right of refusal. The intent at that
 (17) point was not to transfer it to a third party.
 (18) Q The intent was --
 (19) A That was Mr. Sackley's interpretation. That was not my
 (20) interpretation.
 (21) Q What was your interpretation?
 (22) A There was no intent to transfer it to a third party other
 (23) than that they had a first right of a refusal and
 (24) buy-out, so it could go to a third party.
 (25) Q Didn't you represent to the board of directors that you

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- (1) were simply doing this whole transaction as an
 (2) accommodation to John Dille?
 (3) A I did not, no.
 (4) Q At no time?
 (5) A At no time.
 (6) Q The Exhibit 9 goes on to say, "The President requests
 (7) that full details regarding any such activity, planned or
 (8) actual, be provided on a regular basis and that the
 (9) opinion of an FCC attorney be obtained by Dave, at no
 (10) cost to Crystal Radio Group, relative the potential
 (11) impact of such a transfer or assignment on Crystal Radio
 (12) Group."
 (13) Do you remember Mr. Sackley telling you that he
 (14) wanted an opinion from an FCC attorney --
 (15) A That's correct.
 (16) Q (Continuing) -- on that activity?
 (17) A Correct.
 (18) Q Did he indicate why he was concerned that that station
 (19) might have an impact on Crystal Radio Group's license?
 (20) A The discussion was that if something had happened in
 (21) South Bend it had a potential of being an effect on the
 (22) licensees of Crystal Radio, yeah.
 (23) Q And did you believe that was a legitimate concern?
 (24) A I had no reason not to believe that.
 (25) Q Did you understand at that time that if there was a

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- (1) negative occurrence at South Bend it could impact
 (2) Crystal's license?
 (3) A I wasn't sure that was totally true, but it was not an
 (4) issue as far as I was concerned.
 (5) Q And you were willing to get an attorney's opinion on it?
 (6) A Certainly.
 (7) Q You thought Mr. Sackley had a legitimate concern?
 (8) A He asked for it. I had no problem getting it.
 (9) Q And it goes on to say, "That opinion and a review period
 (10) of no less than three business days must be provided
 (11) before Dave enters into any written or oral agreement or
 (12) option. Indeed, such notification and legal opinion
 (13) should be required of any Crystal Radio Group officer,
 (14) director or shareholder contemplating any outside
 (15) broadcast transaction."
 (16) Do you remember discussing that language with
 (17) Mr. Sackley?
 (18) A Well, I remember discussing it with the board.
 (19) Q Okay.
 (20) A I think there was another director that was also
 (21) concerned about how that might bind him or have any
 (22) future thing. I believe it was Mr. Strandin.
 (23) Q Let's talk about that. Exhibit 9 was the agenda for the
 (24) board meeting?
 (25) A Uh-huh.

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- (1) Q The answer is yes?
 (2) A Yes.
 (3) Q There actually was a board meeting on November 28th?
 (4) A Yes.
 (5) Q And this issue did come up?
 (6) A Yes.
 (7) Q What do you remember being said at the board meeting
 (8) about your potential outside ownership interest?
 (9) A I don't know that I can specifically tell you each
 (10) individual board meeting, because it was discussed at
 (11) certainly more than one board meeting.
 (12) Q Actually two, correct?
 (13) A Maybe three, I'm not sure. There were a lot of questions

- (14) about this particular issue, of which I was willing to
 (15) discuss.
 (16) Q Let's talk about the September 28, 1993 board meeting,
 (17) follow up Exhibit 9. What do you remember being
 (18) discussed at that board meeting about this transaction?
 (19) A Well, the directors were more inquiring on the issue, why
 (20) I was -- wanted to get involved in something like that.
 (21) Q Did you describe the transaction to the board?
 (22) A Maybe Mr. Brown did. I'm not sure I did.
 (23) Q Do you recall whether or not you did?
 (24) A Well, I don't know that I described it totally, but I
 (25) knew Rick Brown was there, that had been in on prior

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- (1) discussions and was better able to kind of put it in
 (2) perspective.
 (3) Q How did Mr. Brown describe it?
 (4) A I can't remember.
 (5) Q You have no recollection of what he said?
 (6) A I really don't know, other than he was answering
 (7) questions and, you know, helping along, described it.
 (8) Q Do you have any recollection of what you said by way of
 (9) describing the transactions?
 (10) A I remember some of the issues. Again, it was time
 (11) commitment, why I wanted to get into this radio station.
 (12) Those were the comments.
 (13) Q What did you tell the board with respect to time
 (14) commitment?
 (15) A I think I discussed that earlier.
 (16) Q I understood you to be discussing that in terms of what
 (17) you told Mr. Sackley. So if I misunderstood you --
 (18) A Basically the same.
 (19) Q Which was?
 (20) A There weren't a lot of time commitments to that.
 (21) Virtually none. That we would have a general manager
 (22) there. We had a joint operating agreement in place. The
 (23) radio station would just continue to operate like it has.
 (24) Q Who was the general manager, by the way?
 (25) A The gentleman hired was a fellow by the name of Steve

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- (1) Kline.
 (2) Q When was Mr. Kline hired?
 (3) A I think he was hired just prior to the closing of the
 (4) merger, which was March of '93.
 (5) Q Of '94?
 (6) A Of '94. Excuse me. Yes. I'm not exactly sure of that
 (7) date.
 (8) Q What else do you remember being discussed at the board
 (9) meeting besides the questions about the time commitment?
 (10) A Well, I think that was the board meeting that they
 (11) requested an opinion.
 (12) Q Did they ask you to produce the opinion three business
 (13) days before you entered into any written or oral
 (14) agreement?
 (15) A We produced an opinion, but it's hard to -- you know,
 (16) delivering papers on somebody's timetable, three business
 (17) days before might have been a little bit more than could
 (18) be expected, but --
 (19) Q Did the board tell you that they wanted you to provide
 (20) them with an opinion from an attorney about the impact of
 (21) this transaction on Crystal Radio Group?
 (22) A That's right.
 (23) Q At least three business days before you entered into the
 (24) transaction, any written or oral agreement?
 (25) A If that's what is there, yes. I mean, I can only request

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- (1) this. Mr. Brown actually was the one that spearheaded
 (2) the opinion.
 (3) Q Okay.
 (4) A I was out of the loop at that point as far as the opinion
 (5) letter.
 (6) Q But there was no question in your mind at the conclusion
 (7) of the board meeting that the board was concerned about
 (8) the transaction?
 (9) A Well, certainly.
 (10) Q And that the board wanted to be able to review an opinion
 (11) letter from an attorney before they agreed to allow you
 (12) to go forward with the transaction?
 (13) A They wanted a comfort letter from the attorney, period.

- (14) Q And they wanted it before you went ahead with the transaction?
- (15) A This is what was in there. It was out of my hands. It was in my counsel's hands at that point.
- (16) Q And did you understand why they wanted the opinion letter before you went ahead with the transaction?
- (17) A They wanted a comfort letter.
- (18) Q And if they were uncomfortable with the transaction, they wanted an opportunity to stop it before you went ahead with it, fair statement?
- (19) A That's a fair statement.
- (20) Q Did you discuss with the board at this particular board

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- (1) meeting the financial arrangements for the WRBR transaction?
- (2) A Not in great detail, but sketchy.
- (3) Q Did the board express concern to you about you getting over-extended and therefore not being able to meet financial commitments to Crystal?
- (4) A I think there were some, maybe one or two, questions about that.
- (5) Q Do you remember specifically the questions?
- (6) A Maybe along that same line. I don't know the specific questions.
- (7) Q Do you remember your response?
- (8) A Yes, somewhat.
- (9) Q What did you say?
- (10) A That I wasn't really concerned about that; that the way the joint operating agreement was structured, that - the terms that were laid out, that this radio station had a real great chance of being very healthy very fast, and that would not be a problem.
- (11) Q Did the board ask you if you were guaranteeing any of the financing of this particular transaction?
- (12) A I don't recall that question.
- (13) Q Do you recall the board asking you what you were going to do if you were called to make a financial commitment to that station?

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- (1) A Yeah, I think so.
- (2) Q And do you remember telling the board that if it was necessary for you to make payment on any of your guarantees, John Dille would be at your doorstep in a minute?
- (3) A I think that was a tongue in cheek comment I made, yes.
- (4) Q You did make the comment?
- (5) A A tongue in cheek comment, yes.
- (6) Q When you say "a tongue in cheek comment," what do you mean?
- (7) A That it probably was not a true comment to make, but I think, in the light of the conversation at that point, that was my humor that I thought fit.
- (8) Q You understood the board was concerned about you being over-extended?
- (9) A No, I didn't think it was really any of their concern at all.
- (10) Q You didn't think it was the board's business?
- (11) A Basically, yes. Yeah.
- (12) Q But you understood the board was concerned?
- (13) A Well, they asked the question, so I guess they would be concerned, right.
- (14) Q And to reassure them, you told them, if there was a problem, you told them John Dille would be at your doorstep in a minute?

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- (1) A It seems like I made that comment, yeah, but it was made, like I said, kind of a tongue in cheek.
- (2) Q But now you're saying that statement wasn't true?
- (3) A Well, it wasn't true because that isn't what the structure is.
- (4) Q So were you misrepresenting then to the board -
- (5) A No.
- (6) Q (Continuing) - what John Dille would do if you got in financial trouble?
- (7) A No, I was not.
- (8) Q How was it not a misrepresentation if it's what you told them and it wasn't true?
- (9) A Because I think there was a follow-up answer after that.

- (10) Q What was the follow-up answer?
- (11) A And I'm not sure what that was, but I remember making that in jest.
- (12) Q And you don't remember what the follow-up answer was?
- (13) A No, because I think at that point I perhaps was a little unsettled in my mind on why that was a concern of theirs or why it even should be discussed. It was an irritant - irritant factor at that point.
- (14) Q You were irritated?
- (15) A Yes.
- (16) Q You felt that you had no obligations to tell these people anything about your business dealings?

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- (1) A I didn't say that. At that particular point, I thought it was an irritant question.
- (2) Q Did you procure an attorney's opinion letter regarding the impact on Crystal Radio Group three business days before you signed any oral or written agreement regarding the WRBR transaction?
- (3) A I, again, don't know the dates. Those were in the hands of my counsel, Mr. Rick Brown. And that was his agenda at that point. He also was a director, sitting in on this board meeting.
- (4) Q Showing you a document that was previously marked as Exhibit 15.
- (5) A Uh-huh.
- (6) Q Have you seen this document before?
- (7) A This is the application for the assigning of broadcast license.
- (8) Q Yes?
- (9) A Yes, I have.
- (10) Q As part of that application, the actual asset purchase agreement and other documents related to the purchase of the station were attached, correct?
- (11) A I assume all the attachments were there that were available at that time.
- (12) Q And you signed the document on the page that's numbered 19?

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- (1) A Yeah, that's correct.
- (2) Q There's two 19's, actually. One contains Mr. Booth's signature, correct?
- (3) A Uh-huh.
- (4) Q The answer is yes?
- (5) A Correct. I'm assuming that's Mr. Booth's signature.
- (6) Q And the next Page 19 contains your signature, correct?
- (7) A Correct.
- (8) Q And it says it was executed on the date set forth in the introductory paragraph, correct?
- (9) A If it says that, yes.
- (10) Q And the introductory paragraph says it was made as of November 30th, 1993, correct?
- (11) A That's what that says, yes.
- (12) Q And is it your recollection that you signed this asset purchase agreement on or around November 30th?
- (13) A I don't know what dates those were signed, other than what is on the document.
- (14) Q But apparently it was forwarded to the Federal Communications Commission December 22, 1993, correct?
- (15) A If that's what the date says, yes, it is. But this could have been strictly in the word processor. I don't know.
- (16) Q You don't know when it was sent?
- (17) A I don't know.
- (18) Q Are you confident you signed it before December 22, 1993?

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- (1) A Oh, yes.
- (2) Q This was a written agreement regarding the acquisition of WRBR, correct?
- (3) A That was the application to the FCC, right.
- (4) Q Well, but the attached document is the actual asset purchase agreement; is that correct?
- (5) A That's correct.
- (6) Q Prior to signing this document, you did not obtain an attorney opinion letter regarding the impact of this transaction on Crystal Radio Group, did you?
- (7) A I don't know. I told you before that this was not me.
- (8) This was Mr. Brown. Mr. Brown was given that charge to obtain that for me, as a member of our directors.

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- (14) Q But the board didn't ask Mr. Brown for an opinion letter?
 (15) A No, but Mr. Brown --
 (16) Q They asked you for one, correct?
 (17) A But Mr. Brown said he would take care of it.
 (18) Q Okay.
 (19) A I think there was also a time lapse period there because
 (20) Mr. Zaragoza was brought into the loop and he decided
 (21) that he could not be the proper one to do this. So
 (22) that's how Mr. Alan Campbell became involved.
 (23) Q I'm showing you a document that was previously marked as
 (24) Exhibit 4. And that consists of a cover letter from Mr.
 (25) Campbell, dated April 5th, 1994, and then also another

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- (1) letter addressed to Crystal Radio Group from Mr.
 (2) Campbell, dated March 31st, 1994?
 (3) A Uh-huh.
 (4) Q Let me ask you, is that the opinion letter that you
 (5) ultimately obtained regarding the impact of the WRBR
 (6) transaction on Crystal Radio Group?
 (7) A It looks like the opinion letter, yes, uh-huh.
 (8) Q Would you agree with me, then, that that opinion letter
 (9) was not obtained until four months after you had already
 (10) entered into the written agreement for the purchase of
 (11) WRBR?
 (12) A Prior to closing -- this is not the closing of the
 (13) transaction.
 (14) Q I understand that.
 (15) A You go through the period of time.
 (16) Q Your direction from the board was to provide a review
 (17) period of no less than three business days before you
 (18) entered into any written or oral agreement, correct?
 (19) A Uh-huh.
 (20) Q The answer is yes?
 (21) A That's the answer, yes.
 (22) Q The asset purchase agreement clearly is a written
 (23) agreement regarding the purchase of WRBR, correct?
 (24) A That's correct.
 (25) Q And that was entered into on November 30th, 1993,

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- (1) correct?
 (2) A Correct.
 (3) Q You did not obtain the attorney opinion letter until
 (4) March 31st, 1994, correct?
 (5) A My counsel evidently had not obtained that to have been
 (6) distributed until that date.
 (7) Q He was acting as your counsel in that particular
 (8) obtaining of that opinion letter; is that correct?
 (9) A That is correct.
 (10) Q So your counsel failed to come through for you in meeting
 (11) the deadlines that you were required to meet?
 (12) A Yes. And also recall, he is a member of the board of
 (13) directors of Crystal Radio.
 (14) Q And as a result of him not providing this opinion letter,
 (15) on your behalf, the board of Crystal Radio Group had no
 (16) opportunity to examine what the impact of this
 (17) transaction would be before you actually entered into the
 (18) agreement, correct?
 (19) A Before I entered into the agreement. But had not closed,
 (20) obviously, by your dates.
 (21) Q Well, in fact, the board didn't get the opinion letter
 (22) until after you had closed; isn't that true?
 (23) A No. The board got the letter prior to closing.
 (24) Q Well, the closing for the WRBR transaction occurred on
 (25) March 29th, 1994, did it not?

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- (1) A I think it was March 31st.
 (2) Q Okay, March 31st, 1994, correct? Mr. Campbell's letter
 (3) is also dated March 31st, 1994, correct?
 (4) A That's what it says.
 (5) Q So that the board did not have three business days to
 (6) review the deal even before the closing, did they?
 (7) A If we closed on March 31st.
 (8) Q And the letter is dated March 31st?
 (9) A You're right.
 (10) Q And, in fact, the opinion letter of Mr. Campbell
 (11) acknowledges that, "It's possible that misconduct in the
 (12) operation of WRBR that is attributable to Hicks could be
 (13) so fundamental that it could impact on Crystal through

- (14) his attributable interests in Crystal. However, his
 (15) conduct would need to be extreme, and it's not possible
 (16) to define the parameters of such misconduct in advance."
 (17) That's what he wrote, correct?
 (18) A That's what he wrote.
 (19) Q So the board's concern about whether misconduct at WRBR
 (20) could impact Crystal turned out to be a valid concern,
 (21) correct?
 (22) MR. JONKER: I object to the form of the
 (23) question. I don't think that it's clear from that
 (24) particular sentence. The letter also says that it
 (25) complies in every way with FCC law. And I think that was

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- (1) the concern of the board. But, in any case, he can
 (2) answer if he knows what the board's concern was and how
 (3) they responded to the letter.
 (4) A No, I don't think it's a concern.
 (5) Q Well, you agree with me that the opinion letter of your
 (6) attorney indicated that misconduct at WRBR could have an
 (7) impact on Crystal?
 (8) A I agree with that, yes.
 (9) Q And you would agree that the board had no opportunity to
 (10) discuss that opinion before you closed?
 (11) A Well, I am not sure how papers are shuffled around,
 (12) especially in a transaction like this. To sit here and
 (13) say that I agree with all of these dates, I'm not
 (14) prepared to do that.
 (15) Q Okay.
 (16) A Some of this was out of my hands. This was in counsel --
 (17) and we had two counsels. We had Washington counsel and
 (18) we had a local counsel. So I'm not prepared to sit here
 (19) and say that all of these papers caught up to all -- to
 (20) everyone at the same time.
 (21) Q So it's possible the board didn't get the opinion letter
 (22) until after you closed?
 (23) A I don't know. I -- I think that's not true. I think
 (24) they got the letter prior to closing.
 (25) Q What causes you to think that?

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- (1) A I just -- I just can't believe there is that much of a
 (2) gap there. I think this is a paper trail problem.
 (3) Q No matter whether there is a gap or not, you would agree
 (4) with me that you did not comply with the board's
 (5) direction that you provide them with an opinion letter
 (6) three business days before you entered into any
 (7) agreement?
 (8) A Obviously, if you're nit-picking at a three business day
 (9) before, I would have to agree to that, yeah. But you
 (10) also have to agree, as your business, that everything
 (11) doesn't get done exactly when you're going to -- say it's
 (12) going to get done. And there are catch-up periods. And
 (13) that's all I'm saying. It was out of my hands, in both
 (14) cases.
 (15) Q You also took it out of the board's hands; that is, the
 (16) ability to review the transaction before it went forward
 (17) you took out of the board's hands, correct?
 (18) A Yes. But, also, I was not -- I was not in control of
 (19) when the closing of that radio station would be. That's
 (20) another element. That's the FCC.
 (21) Q Well, at this point I'm less concerned about the closing
 (22) than I am about the time when --
 (23) A I'm not, because I think it's a very minute, nit-pickin'
 (24) piece of nothing. That's what I think.
 (25) Q All right.

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- (1) A Okay. So I think we've played this to death.
 (2) Q But you understood the board didn't think it was a
 (3) nit-pickin' piece of nothing; they thought it was
 (4) important?
 (5) A Well, for maybe other reasons than what's on a piece of
 (6) paper, correct.
 (7) Q And because you didn't think it was important, you chose
 (8) not to comply with the wishes of the board?
 (9) A No, I didn't do that intentionally at all, Craig. It was
 (10) not an intentional thing at all on my part.
 (11) Q Well, certainly signing the agreement was intentional,
 (12) true?
 (13) A When you call your client in to sign papers, your client

- (14) comes in and signs papers. I didn't say, "Hey, I want to
- (15) sign that paper right now." I was called in to sign
- (16) papers. I came in to sign papers. My counsel knew of
- (17) all of this. Okay?
- (18) Q Well, did your counsel work for you or did you work for
- (19) your counsel?
- (20) A My counsel worked for me.
- (21) Q Okay.
- (22) MR. JONKER: Let's take a break.
- (23) (Recess taken between 3:15 and 3:44 p.m.)
- (24) Q Going back to the board of directors meeting of Crystal
- (25) Radio Group of September 28, 1993, among other things, it

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- (1) was recommended and adopted that there be amendments to
- (2) the shareholders agreement providing for Sackley Sr.'s
- (3) ability to transfer stock to his children. In addition,
- (4) the amendment would extend time for closing. Do you
- (5) recall that that was the second time that the
- (6) shareholders agreement was amended?
- (7) MR. JONKER: Just a clarification. Are these
- (8) the minutes of the same meeting, September of '93?
- (9) MR. LUBBEN: Yes. Exhibit 9 is the agenda.
- (10) Exhibit 7 are the minutes.
- (11) MR. JONKER: Okay.
- (12) Q My question is, do you recall the shareholders agreement
- (13) being amended at that particular meeting?
- (14) A I remember this discussion, yep. But I didn't know
- (15) whether it was the second or first or - wasn't -
- (16) Q So you understood, at least after that meeting, that the
- (17) shareholders agreement could be amended?
- (18) A Well, this particular provision, not the forced sale
- (19) provision. That was a separate entity, in my opinion.
- (20) Q Well, is it fair to say that as of the September 28, 1993
- (21) meeting, you frankly didn't think about the issue of
- (22) whether the forced sale provision could be amended?
- (23) A At this particular meeting?
- (24) Q Right.
- (25) A It wasn't in issue.

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- (1) Q It didn't come into your mind?
- (2) A That's correct.
- (3) Q Okay.
- (4) A Let me see this. Is this the same as -
- (5) Q Yes.
- (6) A There is nothing in these minutes regarding this outside
- (7) ownership issue.
- (8) Q There is a paragraph entitled "Outside Ownership,"
- (9) correct?
- (10) A Excuse me. I just overlooked that.
- (11) Q And it is your recollection that that issue of outside
- (12) ownership was discussed at the board meeting, as you have
- (13) previously testified, correct?
- (14) A Be disclosed and reviewed by the board. That doesn't
- (15) really address this issue about the three day opinion.
- (16) This was in discussion. But it is not even mentioned in
- (17) the -
- (18) Q Right. It was put in the agenda, correct?
- (19) A But this is not an official document. The minutes would
- (20) be the official document.
- (21) Q I'm not trying to argue about it. But it was put in the
- (22) agenda, correct?
- (23) A Right.
- (24) Q You discussed it with Mr. Sackley, correct?
- (25) A It was discussed.

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- (1) Q And then it was discussed at the board meeting, correct?
- (2) A But there is no indication it was discussed in the board
- (3) meeting.
- (4) Q I know it's not in the minutes. Do you recall it was
- (5) discussed at the board meeting?
- (6) A There was a lot of things discussed at the board
- (7) meeting. Whether this was the three day thing or
- (8) whatever, you know, I don't see it on the agenda - or I
- (9) don't see it on the official minutes, so -
- (10) Q I understood your earlier testimony to be that you
- (11) understood that you had a direction from the board to
- (12) provide -
- (13) A To keep them updated.

- (14) Q Well, and to provide an attorney's letter?
- (15) A Yep.
- (16) Q Three days before the transaction?
- (17) A Which we - which we did provide them an attorney's
- (18) letter.
- (19) Q But three days before you entered into any oral or
- (20) written agreement?
- (21) A We went through the three day issue.
- (22) Q Right.
- (23) A The three day issue is an impossible task because, first
- (24) of all, director - or shareholder Zaragoza was
- (25) involved. That took some time. Then Alan Campbell was

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- (1) involved, and that took some time. The document says
- (2) there is no problem. So it's a non-issue. And it's not
- (3) in the official minutes of the board meeting.
- (4) Q I understand you want to argue about a lot of issues, but
- (5) I would like you to answer my question, if you would. My
- (6) question is, do you recall at the board meeting the board
- (7) directed you to come up with an attorney opinion letter
- (8) three business days before you entered into any oral or
- (9) written agreement?
- (10) A As was - it was discussed, correct.
- (11) Q And you agree that you did not do that?
- (12) A I fulfilled the obligations of the board by keeping them
- (13) advised.
- (14) Q You did what you thought was enough?
- (15) A That's right.
- (16) Q But you did not do what the board had asked you to do?
- (17) A Well, I did what I felt was enough, that's correct.
- (18) Q But you did not do what the board directed you to do, did
- (19) you?
- (20) A At the - I was not in control. I was not in control of
- (21) providing that.
- (22) Q You don't accept responsibility?
- (23) A That's right.
- (24) Q But the fact of the matter is, you did not provide the
- (25) board with an attorney opinion letter three business days

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- (1) before you entered into the written agreement on November
- (2) 30th, 1993, correct?
- (3) A Well, that's correct.
- (4) Q Now, at this same board meeting there was a discussion of
- (5) the fact that you had certain items of a personal nature
- (6) which you were treating as expense account transactions
- (7) prior to the merger, including country club, dining club,
- (8) travel, lodging, automobile, personal items and other
- (9) expenses that were paid by credit card and company
- (10) check. Do you remember that issue coming up at the board
- (11) meeting?
- (12) A I remember the issue of the country club, right.
- (13) Q Do you remember even before the board meeting reviewing
- (14) this agenda with Mr. Sackley?
- (15) A That isn't on the agenda there; is that right?
- (16) Q Yes, it is on the agenda.
- (17) A This is the agenda item?
- (18) Q Yes.
- (19) A Excuse me.
- (20) Q Do you remember Mr. Sackley expressing concern to you
- (21) about the fact that you had been charging personal items
- (22) to the company?
- (23) A No, I don't recall that.
- (24) Q Well, did you read the agenda?
- (25) A Yes.

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- (1) Q Did you understand that you could no longer charge
- (2) personal items to the company?
- (3) A Yes.
- (4) Q Did you agree that before this you had been charging
- (5) personal items to the company?
- (6) A No.
- (7) Q Well, then when Mr. Sackley made the statement in the
- (8) agenda that items of a personal nature which had been
- (9) treated by you as expense account transactions prior to
- (10) the merger were not legitimate expenses for federal
- (11) income tax purposes, and therefore must be reported as
- (12) income to the employee for 1993, did you tell Mr. Sackley
- (13) you didn't agree with that?

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- (14) A No, I did not. But documentation was given for those
(15) allowances.
(16) Q What documentation?
(17) A Excuse me. A W-2 was given for those expenditures.
(18) Q It was shown as income to you for 1993?
(19) A Yes.
(20) Q Prior to 1993 it had never been shown as income to you
(21) when the company paid personal items, correct?
(22) A I don't know. That's an accounting item.
(23) Q The next meeting of the board of Crystal Radio after this
(24) September 28, 1993 meeting was on January 28th, 1994,
(25) correct?

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- (1) A That's the date here.
(2) Q Prior to that board meeting, Exhibit 15, the application
(3) for consent to assignment of broadcast station,
(4) construction permit or license, in other words, the
(5) application to assign the WRBR license from Booth to
(6) Hicks Broadcasting of Indiana, LCC, had been filed,
(7) correct?
(8) A If this is the date that it was filed. Prior to, yes.
(9) Q And there are trade industry publications which publish
(10) the fact that applications had been filed with the FCC
(11) for a transfer of license; is that correct?
(12) A That's correct.
(13) Q In January of 1994 did Ed Sackley approach you and tell
(14) you that he had learned through someone who had seen one
(15) of these trade industry notices -
(16) A Yes.
(17) Q (Continuing) - that you had gone ahead and applied for a
(18) transfer of the RBR -
(19) A That the application had been received at the Commission.
(20) Q Did he point out to you that you had not yet supplied the
(21) attorney opinion letter?
(22) A I think I - I don't recall, but possibly.
(23) Q Where were you when Ed Sackley brought to your attention
(24) that he had just learned that you had proceeded to file
(25) the application for the transfer for the license for

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- (1) WRBR?
(2) A Think I was in my office.
(3) Q Was anyone else present besides you and Mr. Sackley?
(4) A I don't recall.
(5) Q How long did the discussion last?
(6) A It was a very brief discussion.
(7) Q What do you remember Mr. Sackley saying?
(8) A I don't remember much about it other than he was - he
(9) had some telephone call from a fellow - his accounting
(10) firm, that was asking about the transaction.
(11) Q What else did he say?
(12) A I don't recall.
(13) Q Did he appear upset?
(14) A No, I don't think so.
(15) Q Did he ask you to explain what had happened?
(16) A No.
(17) Q Did he remind you that you were supposed to supply an
(18) attorney opinion letter three days before you signed a
(19) deal?
(20) A I don't think that he said three days before. I think he
(21) wanted to know about the attorney letter.
(22) Q What did you say?
(23) A And I said I thought the attorney letter was on its way
(24) or had been - I didn't know what the status was of the
(25) attorney letter, but I knew that Zaragoza had been

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- (1) contacted about it.
(2) Q Well, wasn't it a fact that Mr. Zaragoza was not
(3) contacted about the attorney letter until this January of
(4) '94 meeting?
(5) A I don't know that.
(6) Q Isn't it a fact that at this January of '94 meeting the
(7) board expressed concern to you about the fact that you
(8) had proceeded with this transaction without getting the
(9) attorney letter?
(10) A That was in discussion.
(11) Q And Mr. Brown indicated, on your behalf, that perhaps Mr.
(12) Zaragoza could supply a letter?
(13) A Yes, I recall that.

- (14) Q Mr. Zaragoza was not at this meeting because he was not a
(15) member of the board, correct?
(16) A Correct.
(17) Q And do you remember Ed Sackley said Mr. Zaragoza can't
(18) issue an opinion because he's an interested party, he's a
(19) shareholder?
(20) A Uh-huh.
(21) Q Do you remember that?
(22) A I recall that possibly, yes.
(23) Q And Mr. Brown said, "Well, we'll let Mr. Zaragoza decide
(24) that?"
(25) A I don't recall that statement, but -

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- (1) Q In any event, Mr. Brown contacted Mr. Zaragoza on your
(2) behalf?
(3) A I assume that he did, yes.
(4) Q And Mr. Zaragoza said immediately that he would not issue
(5) an opinion letter on the transaction because he was a
(6) shareholder in Crystal Radio Group; isn't that true?
(7) A I don't know that for a fact. I didn't talk to Mr.
(8) Zaragoza.
(9) Q Didn't Mr. Brown tell you that?
(10) A I don't know that he told me that.
(11) Q So when you say that Mr. Zaragoza was somehow part of
(12) the
(12) process and slowed things up, isn't it true that Mr.
(13) Zaragoza refused from the very first time he was asked to
(14) offer an opinion on this transaction?
(15) A I don't know that for a fact.
(16) Q Do you have any reason to think it isn't true?
(17) A I don't know either way.
(18) Q So really you are not in a position to attribute any
(19) delay to Mr. Zaragoza, are you?
(20) A I don't know what the - what the delay process might be.
(21) Q Exactly.
(22) A I didn't contact Mr. Zaragoza.
(23) Q Because you don't know, you can't say it's his
(24) responsibility, can you? You don't have any facts which
(25) would allow you to say that?

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- (1) A Other than he was the first contact, that's all I know.
(2) Q Well, he was not even identified as a contact until after
(3) you had already submitted the application to the FCC;
(4) isn't that true?
(5) A The application, that's correct, according to those
(6) dates.
(7) Q Incidentally, I asked you earlier about the agenda and
(8) the minutes, and you were careful to point out that the
(9) minutes are the official action of the board of
(10) directors, correct?
(11) A That's correct.
(12) Q The agenda is not an official action of the board,
(13) correct?
(14) A I never knew an agenda to be the official one unless it's
(15) adopted as minutes.
(16) Q So you wouldn't rely on anything in there as an official
(17) action of the board, correct?
(18) A I don't know that "anything." I don't know what you're
(19) referring to.
(20) Q Well, I want to make sure I understand the distinction
(21) you're making. You're saying an agenda is a proposal put
(22) out by management but it is not the action of the board,
(23) correct?
(24) A That's correct.
(25) Q The minutes reflect the official action of the board,

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- (1) correct?
(2) A Adopt the items discussed by the board.
(3) Q So you can't rely on the agenda as any kind of an
(4) official action of the board?
(5) A Yes.
(6) Q Now, come back to this meeting in your office in January
(7) of '94 where Mr. Sackley comes in and tells you he just
(8) heard that you've already applied for the transfer of the
(9) license. What does Mr. Sackley ask you to do at that
(10) point in time?
(11) A I don't recall.
(12) Q What happens next?

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- (13) A Actually, there was nothing I could do. I mean, I
 (14) can't - in the middle of a paper trail, I can't - there
 (15) isn't much I can do.
 (16) Q Well, part of the reason there wasn't much you could do,
 (17) because you weren't really controlling this transaction,
 (18) correct?
 (19) A Yes, I was controlling this transaction.
 (20) Q You were controlling the WRBR transaction?
 (21) A Oh, certainly.
 (22) Q Isn't it true that John Dille and John Booth were really
 (23) the parties controlling that transaction?
 (24) A No, that's not true at all, because I was working
 (25) directly with Rick Brown. Why would Dille and Booth be

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- (1) involved, except on that side of it, possibly.
 (2) Q Well, Booth was selling, correct?
 (3) A Booth was selling.
 (4) Q And Dille was putting up all the money to buy, correct?
 (5) A No, that's not correct at all.
 (6) Q Well, of the \$50,000 that was put down to hold this deal,
 (7) 25,500 came by way of a letter of credit from you,
 (8) correct?
 (9) A Correct.
 (10) Q And with respect to that letter of credit, you had a
 (11) letter of understanding with the Dille children where
 (12) they agreed to indemnify you from any costs, losses,
 (13) claims, liabilities, fines, expenses, penalties and
 (14) damages in connection with or resulting from the letter
 (15) of credit given by you to Booth?
 (16) A Uh-huh.
 (17) MR. JONKER: I object to the form of the
 (18) question, before he finishes, because I don't think the
 (19) letter of credit date ties up with the March 31st date.
 (20) You're reading from a March 31st document.
 (21) MR. LUBBEN: I understand.
 (22) Q You had an agreement with the Dille kids that they would
 (23) indemnify you against any losses in connection with that
 (24) letter of credit, correct?
 (25) A Yes.

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- (1) Q And that was actually documented in a letter dated March
 (2) 31st, 1994, correct?
 (3) A If that's the date.
 (4) Q And that's attached as part of Exhibit 10, correct?
 (5) A Correct.
 (6) Q And even though it was documented on March 31st, 1994, it
 (7) was agreed orally between you and John Dille from the
 (8) beginning that he was going to indemnify you against any
 (9) losses in connection with this letter of credit?
 (10) A Somewhere in the process. Not certainly at the
 (11) beginning.
 (12) Q But long before the document was put in writing that was
 (13) the understanding?
 (14) MR. JONKER: I object to the form of the
 (15) question. I don't know what "long before" means.
 (16) A I don't know what "long before" means at all. Somewhere
 (17) in the process.
 (18) Q Well, before you put up the letter of credit, correct?
 (19) A That's correct.
 (20) Q I mean, you weren't going to put up the letter of credit
 (21) until you had the understanding that he was going to
 (22) indemnify you against the losses?
 (23) A Well, I don't know that that was - that was part of
 (24) negotiation.
 (25) Q And the indemnity was coming from his children, but you

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- (1) didn't have any financial statements from his children,
 (2) did you?
 (3) A I had no financial statements from his children.
 (4) Q But you were not concerned about the fact that you didn't
 (5) have any financial statements from his children, were
 (6) you?
 (7) A No.
 (8) Q And the reason you were not concerned about it was
 (9) because John Dille had assured you that he would make
 (10) sure that his kids were able to stand up to that
 (11) indemnity, correct?
 (12) A No. I was relatively sure that the property itself could

- (13) sustain -
 (14) Q Well, but under the indemnity provision, you would be
 (15) liable under the letter of credit only if the deal didn't
 (16) go through, correct?
 (17) A Uh-huh.
 (18) Q The answer is yes?
 (19) A Correct.
 (20) Q So it was irrelevant whether or not the property could
 (21) sustain the transaction. You were only going to be
 (22) liable if the deal fell through. And if the deal fell
 (23) through, there was no property to cover the costs,
 (24) correct?
 (25) A Well, if that's what that document states about whether

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- (1) the deal proceeds or doesn't proceed, then that's
 (2) correct. That isn't my understanding of what that was.
 (3) Q Do you recall that the \$50,000 was refunded to everyone
 (4) when the deal closed?
 (5) A No, it was not. It was not.
 (6) Q What do you think happened to it?
 (7) A It stayed in - I don't know what happened to their
 (8) portion. I know what happened to mine. Mine was a
 (9) year - to maintain the LCC for a year.
 (10) Q And then what happened to it?
 (11) A And then it was refunded, or canceled.
 (12) Q And, incidentally -
 (13) A So it had nothing to do with whether the deal fell
 (14) through or not.
 (15) Q With respect to the other portion of that \$50,000, the
 (16) 24,500 was coming from Mr. Dille's children, correct?
 (17) A That is my understanding.
 (18) Q And what happened was, Mr. Dille wrote a check to his
 (19) children in the amount that they were supposed to
 (20) contribute, that was deposited into their checking
 (21) accounts, and then a check was written by Mr. Dille's
 (22) accountant on those checking accounts so that they could
 (23) pay their portion of the 24,5, correct?
 (24) A I don't have any knowledge of his financial transactions.
 (25) Q Are you surprised to learn that John Dille put up all of

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- (1) the money that his kids contributed to the escrow
 (2) account?
 (3) A No. I don't know what kind of an arrangement he would
 (4) have with his children.
 (5) Q But it doesn't surprise you to learn that he came up with
 (6) the money, does it?
 (7) A I have no knowledge of why or how or if.
 (8) Q So, from your perspective, you didn't -
 (9) A It wasn't of concern to me.
 (10) Q (Continuing) - you didn't know if these kids had any
 (11) money or not, but you did require them to indemnify you,
 (12) correct?
 (13) A I'm not - this was part of the process, part of the
 (14) negotiation process.
 (15) Q And part of the process was you insisted that you be
 (16) indemnified by children that you didn't know if they had
 (17) any money or not?
 (18) A Well, but I'm not sure if that was my idea. That was
 (19) possibly Rick Brown's idea, the indemnification.
 (20) Q Well, didn't Rick Brown tell you that these kids would be
 (21) indemnifying you?
 (22) A Certainly.
 (23) Q Did you ask him, "Well, do we know whether they have the
 (24) financial capacity to indemnify me?"
 (25) A I don't know if that was in a discussion or not.

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- (1) Q Isn't that kind of a basic fact? Don't you need to know
 (2) that?
 (3) A Well, you know, I know certainly the Dilles - the Dille
 (4) background. I guess the assumption is that children are
 (5) certainly able financially to do just about anything that
 (6) they want to do.
 (7) Q And, isn't it a fact that John Dille told you that if
 (8) there was a problem he'd be at your doorstep in a minute?
 (9) A No.
 (10) Q And he'd stand behind his kids?
 (11) A No, he did not.
 (12) Q And he would make sure they honored their obligation?

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- (13) A I think any father would stand behind their kids, but I don't know that that was part of their conversation.
 (15) Q You're denying here under oath today that John Dille ever represented to you that he would stand behind his kids and make sure you did not suffer a loss?
 (17) A Yeah. I don't recall that conversation at all.
 (19) Q Are you saying it didn't happen or are you saying you don't recall?
 (21) A I don't recall that ever happening.
 (22) Q You don't deny that it may have happened?
 (23) A It's unlikely that conversation took place.
 (24) Q But you can't say for certain because you don't recall?
 (25) A I don't recall.

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- (1) Q You mentioned that the general manager that ran WRBR was a fellow by the name of Mike Klein, did you say?
 (2) A Steve Kline.
 (4) Q Steve Kline. Where did he come from?
 (5) A Australia.
 (6) Q And how did he come to work for you, or work for Hicks Broadcasting?
 (8) A He was in Australia for two years, worked prior to, two years before, at WCKY in Cincinnati, wanted to get back in the area.
 (11) Q WCKY was a station was owed by Pathfinder Communications?
 (12) A That's correct.
 (13) Q Pathfinder Communications is a company owned by John Dille, isn't that correct?
 (15) A That's correct.
 (16) Q So Mr. Dille's organization supplied Mr. Kline, correct?
 (17) A Well, he applied. We interviewed two or three people.
 (18) Q Who else did you interview?
 (19) A I don't recall their names.
 (20) Q Who did the interview?
 (21) A Both myself and Mr. Dille.
 (22) Q Why was Mr. Dille interviewing for general manager for your radio station?
 (24) A He was not.
 (25) Q Didn't you just tell me he participated in the

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- (1) interviewing?
 (2) A But he was interviewing for general manager of his radio station.
 (4) Q What was his station?
 (5) A Well, at that time it was WLTA.
 (6) Q Were you interviewing for one general manager to manage both stations?
 (8) A Yes.
 (9) Q And did you select one general manager to run both stations?
 (11) A Yes.
 (12) Q And who made the decision?
 (13) A I think I did.
 (14) Q And Mr. Kline was already working for Pathfinder, correct?
 (15) A No. Prior, previous employment. He was not working in Cincinnati. He was with some music syndicated company.
 (18) Q Who actually is the employer of Mr. Kline?
 (19) A He is -- he is in a dual capacity.
 (20) Q Who issues his paychecks?
 (21) A The Federated Media is the accounting source.
 (22) Q Federated Media is a trade name that covers both Pathfinder Communications and Truth Publishing, correct?
 (24) A That's right.
 (25) Q Both entities are owned by John Dille, correct?

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- (1) A That's correct.
 (2) Q And so you're saying Mr. Dille's entities supply the paycheck for Mr. Kline, correct?
 (4) A Well, whatever their accounting methods are, right.
 (5) Hicks Broad --
 (6) Q Who does the programming for WRBR?
 (7) A Right at the moment, a fellow by the name of Joe Turner.
 (8) Q Who employs Joe Turner?
 (9) A I do.
 (10) Q Who issues his paycheck?
 (11) A Federated Media.

- (12) Q Does Mr. Turner act as a program manager for other stations --
 (14) A No.
 (15) Q (Continuing) -- in addition to WRBR?
 (16) A No.
 (17) Q Why does Federated Media issue his paychecks?
 (18) A Because they, in turn, take care of my accounting. My accounting goes back into Federated Media.
 (20) Q So all of the accounting for WRBR is done by Federated Media?
 (21) Media?
 (22) A That's right. That's under the joint sales agreement, joint operating agreement.
 (24) Q And WRBR is managed by the general manager for Pathfinder?

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- (1) A And for Hicks.
 (2) Q And the programming is done by the person who works for Federated Media?
 (4) A No.
 (5) MR. JONKER: I object to the form of the question. That's not at all what he said. He said the paycheck was issued through Federated Media as part of the joint operating agreement.
 (9) Q Does Mr. Turner do any other programming for the station?
 (10) A No.
 (11) Q What is Mr. Turner's relationship, if any, to WLTA?
 (12) A Nothing.
 (13) Q Where are the offices of WRBR located?
 (14) A The offices are located in South Bend -- Mishawaka.
 (15) Q In the same building as WLTA; isn't that correct?
 (16) A That's correct.
 (17) Q In the same office; isn't that true?
 (18) A That's correct.
 (19) Q Do you have an employment agreement with Mr. Turner?
 (20) A Yes, we do.
 (21) Q And under the terms of that employment agreement who is identified as the employer?
 (23) A Hicks Broadcasting.
 (24) Q Is this a written employment agreement?
 (25) A I believe it is.

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- (1) Q You view Mr. Turner, then, as an employee of WRBR, correct?
 (3) A I do.
 (4) Q Does WRBR have any other employees?
 (5) A Yes.
 (6) Q Who?
 (7) A We have a gal by the name of Karen - I can't tell you her last name - and two other employees.
 (9) Q What's Karen's role?
 (10) A Karen is a morning radio personality.
 (11) Q Who pays her?
 (12) A Hicks Broadcasting.
 (13) Q So there the accounting does not go through Federated Media?
 (14) Media?
 (15) A No, all of the accounting goes through Federated Media.
 (16) Q So all of the paychecks come from Federated Media?
 (17) A All of them. But I think they are -- I think they're -- the paychecks that come back, I think, are indicated as Hicks, with a stamp. I am not sure how that works. It comes out of Federated's accounting office.
 (21) Q Who hired Karen, the morning radio personality?
 (22) A Steve Kline.
 (23) Q When did he hire her?
 (24) A I'm not sure.
 (25) Q Who did she work for before she was hired as a morning

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- (1) radio personality for WRBR?
 (2) A I think she was out of the market. I don't know.
 (3) Q You mentioned that WRBR has two other employees. What are their names?
 (5) A I would have to refer to notes for that. I don't know.
 (6) Q What are their jobs?
 (7) A Radio personalities, disc jockeys.
 (8) Q Who hired them?
 (9) A Steve Kline.
 (10) Q Did either of those radio personalities work for Federated Media prior to coming to work for Hicks?

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- (12) A Not to my knowledge. I think one of them worked for
(13) Booth.
(14) Q Who supervises Steve Kline?
(15) A Steve Klein reports to me and to John Dille, reports to
(16) me for WRBR's affairs.
(17) Q Does anyone do written evaluations of Steve Kline?
(18) A No, but we have - we have reviews periodically.
(19) Q Who completes those reviews?
(20) A Well, I have discussed the WRBR section with Steve. We
(21) talk about various matters.
(22) Q Is this a written review?
(23) A No.
(24) Q Does he receive written reviews from Federated Media, to
(25) your knowledge?

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- (1) A I have no idea.
(2) Q Let's come back to January 28th, 1994. Prior to that
(3) board meeting, do you remember Mr. Brown coming to the
(4) station?
(5) A On this day, yes.
(6) Q And do you remember meeting with Mr. Brown and Mr.
(7) Sackley prior to the board meeting?
(8) A Yes.
(9) Q Where did that meeting occur?
(10) A In my office.
(11) Q How long did it last?
(12) A Possibly a half hour or so.
(13) Q What do you remember being said at that particular
(14) meeting?
(15) A I think this was the corporate opportunity discussion.
(16) Q How did it come up?
(17) A Mr. Brown brought it up.
(18) Q Do you remember Mr. Sackley saying in front of you and
(19) Mr. Brown that he was very concerned that you had
(20) proceeded to apply for the transfer of license without
(21) notifying him?
(22) A I do.
(23) Q And do you remember Mr. Brown said to you that he had
(24) told you earlier that under the corporate opportunity
(25) doctrine you were required to notify the directors of

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- (1) Crystal Radio Group before you went ahead with this
(2) transaction?
(3) A No, I don't remember that comment at all.
(4) Q Do you remember that you told Mr. Brown that he was
(5) wrong, that he had not previously said anything to you
(6) about the corporate opportunity doctrine?
(7) A Well, maybe I had no knowledge of the corporate
(8) opportunity act. Maybe that - did say that. I don't
(9) know. Whatever it was, I have no - I had no
(10) recollection of the corporate opportunity act.
(11) Q Did Mr. Brown mention the corporate opportunity doctrine
(12) to you and whether or not you disputed it or not?
(13) A I was never aware of that before that time, before we sat
(14) down.
(15) Q You do not dispute that Mr. Brown brought it up?
(16) A It was the topic of the meeting.
(17) Q What did Mr. Brown say?
(18) A That - he reviewed what it was.
(19) Q What did he say?
(20) A We should present this to the directors today to see what
(21) their thoughts are.
(22) Q Did he explain why it was necessary to present it to the
(23) directors?
(24) A Whether or not it was an opportunity act, I think Mr.
(25) Sackley was aware of it at that point and was interested

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- (1) in hearing about it.
(2) Q Did he explain to you that Crystal Radio Group would have
(3) to be given the opportunity to undertake this transaction
(4) if it wanted to do so?
(5) A Well, we discussed that possibility, right, and it was
(6) discussed at the board meeting.
(7) Q And what did you say in your meeting - we'll come back
(8) to the board meeting in a minute. What did you say about
(9) that in your meeting with Mr. Brown and Mr. Sackley?
(10) A I can't remember what I said.
(11) Q Do you remember in that meeting with Mr. Brown and Mr.

- (12) Sackley, at that time Mr. Sackley again said, "We still
(13) don't have the attorney opinion letter?"
(14) A Well, I don't remember that comment, but obviously he
(15) didn't have it.
(16) Q Anything else you can remember about the meeting with Mr.
(17) Brown and Mr. Sackley prior to January 28th?
(18) A Mr. Brown was upset, as I recall. He was upset there was
(19) tension between Ed Sackley and myself, and was very
(20) concerned about the direction of the relationship.
(21) Q Did you discuss this with Mr. Brown after the meeting?
(22) A Discuss?
(23) Q In other words -
(24) A What subject?
(25) Q You had your meeting together with Mr. Sackley and Mr.

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- (1) Brown, correct? You said Mr. Brown appeared upset about
(2) the tension between you and Mr. Sackley?
(3) A Yes.
(4) Q Did you have another discussion with Mr. Brown later
(5) without the presence of Mr. Sackley?
(6) A There is a possibility. But I don't recall any of the
(7) content of that discussion.
(8) Q Now, let's talk about the board meeting itself. That
(9) occurred very shortly after your meeting with Mr. Brown
(10) and Mr. Sackley, correct?
(11) A Correct.
(12) Q What do you remember being said at the board meeting
(13) itself about the WRBR transaction?
(14) A I think Mr. Brown took that opportunity to explain
(15) corporate opportunity.
(16) Q To the entire board?
(17) A Right.
(18) Q And do you remember him saying, too, to the board that
(19) the board had to be given the opportunity to take over
(20) this transaction?
(21) A He was explaining the corporate opportunity. I don't
(22) remember that he said that they had to be, but he was
(23) explaining what it meant.
(24) Q What do you remember about his explanation?
(25) A He was explaining what the corporate opportunity meant;

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- (1) that in the normal cases you present an opportunity to
(2) the board and they can look at it and decide whether
(3) that's something they would be interested in.
(4) Q And what did he say about how that applied to this
(5) particular situation?
(6) A I don't recall whether he made a firm judgment on this
(7) particular case or not.
(8) Q What else was said at this board meeting?
(9) A I think Mr. Sackley commented on the fact that in he had
(10) even looked at the thing and it was a dog. He commented
(11) again.
(12) Q And what else was said?
(13) A I don't recall.
(14) Q Do you remember any additional questions being raised at
(15) this particular meeting about how this particular
(16) transaction might impact your ability to devote your
(17) attentions to the business of Crystal Radio Group?
(18) A I think maybe that was discussed, but I don't recall the
(19) details.
(20) Q Do you remember the board again expressing concern
(21) about
(22) the impact of your financial commitments -
(23) A No.
(24) Q (Continuing) - on your ability to meet your obligations?
(25) A Not at that board meeting, no.
(26) Q Do you remember the board reminding you that it had

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- (1) previously instructed you to furnish the board with a
(2) legal opinion from an FCC attorney on the possible impact
(3) of the transaction on Crystal?
(4) A If it's in there, that was certainly discussed.
(5) Q Did the board ask you why you had failed to do that?
(6) A No, I don't think they asked me why, but I think we
(7) discussed that opinion. And I don't recall what the
(8) answer was. We probably directed it to Rick Brown at
(9) that point.
(10) Q Isn't that the point where Mr. Brown said, "Perhaps we

- (11) could ask Mr. Zaragoza for that opinion?
 (12) A I don't know those sequences at all, whether that was the time or what.
 (13) Q Did the board again discuss with you their concern about the ramifications if WRBR had FCC violations?
 (14) A That they thought WRBR had FCC ramifications?
 (15) Q No. Did they discuss with you their concern, if you proceeded with WRBR -
 (16) A That was an option.
 (17) MR. JONKER: Let him finish the question.
 (18) Q (Continuing) - If you proceeded with the WRBR transactions and it had FCC violations, that that might adversely impact Crystal?
 (19) A Yes.
 (20) Q And did they tell you that they might need

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- (1) indemnification from you if that's what legal counsel recommended?
 (2) A Yes.
 (3) Q Now, the minutes said that you acknowledged understanding these points and agreed to arrange for Dick Zaragoza to review the transaction. Does that refresh your recollection whether that was the time when Zaragoza was first mentioned?
 (4) A If it says in there, then that would refresh my recollection.
 (5) Q Eric Brown agreed to assist you in obtaining that opinion, and it says in there -
 (6) A Yes. And I'm assuming that was agreed to by the board.
 (7) Q You do recall, however, Mr. Sackley saying that Mr. Zaragoza could not render that opinion because he was a shareholder and, therefore, would not be disinterested?
 (8) A Well, Mr. Sackley was expressing his view. I'm not sure that I recall that. But Mr. Brown stated that he would contact Mr. Zaragoza. I'm assuming the board agreed to that. It's in the minutes.
 (9) Q And you don't know what Mr. Zaragoza said to Mr. Brown, in any event?
 (10) A No, I did not.
 (11) Q Did Mr. Brown ever tell you that Mr. Zaragoza had declined to issue an opinion on the matter?

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- (1) A I think he did, but I don't recall when that was. I think that's when we moved to Alan Campbell.
 (2) Q Let me make sure I understand the sequence here. In your initial discussions with Mr. Dille he talked about wanting to have an option or agreement, or whatever, where his kids could purchase your interest -
 (3) A Yes.
 (4) Q (Continuing) - in the entity, correct?
 (5) A Yes.
 (6) Q And as Exhibit 13 indicates, by August 17th, 1993 you and Mr. Dille agreed that there would be an arrangement or option, or whatever, for his kids to purchase from you your shares when and if that became possible?
 (7) A Well, if you're referring to this, I never saw that exhibit. But we did discuss the first rights of refusal.
 (8) Q You don't dispute that you had agreed that that was going to be one of the terms?
 (9) A Right.
 (10) Q You agreed to that, certainly, before August 17th of '93?
 (11) A It appears that way.
 (12) Q Who prepared this application to the Federal Communications Commission for this transfer?
 (13) A Alan Campbell.
 (14) Q You recognized, did you not, that you had an obligation to be candid and truthful with the Federal Communications

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- (1) Commission?
 (2) A That's correct.
 (3) Q And that if you were not candid and truthful, it could affect your ability to be a licensee?
 (4) A That's correct.
 (5) Q Directing your attention to Section 6, "Certification," it says, "I certify that the assignee's statement in this application are true, complete and correct, to the best of my knowledge and belief, and are made in good faith," (10) correct?

- (11) A Uh-huh.
 (12) Q Your answer is yes?
 (13) A That's correct.
 (14) Q And then there is a signature. Is that your signature?
 (15) A That's my signature.
 (16) Q It's dated December 21, 1993; is that correct?
 (17) A Yes.
 (18) Q Is that the date you signed it?
 (19) A Right.
 (20) Q Question 15 is a question. "Are there any documents, instruments, contracts or understandings relating to ownership or future ownership rights, including but not limited to nonvoting stock interests, beneficial stock ownership interests, options, warrants or debentures?" (25) And you represented to the Commission that the answer was

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- (1) no, correct?
 (2) A It was indicated there was none, yes.
 (3) Q That was not a true statement, was it?
 (4) A That there is no additional documents beyond or understandings?
 (5) Q The question was, are there any understandings related to ownership, including options? You said no, correct?
 (6) A There was none. No additional understandings.
 (7) Q There was nothing in these documents to indicate your understanding with the Dille children that they could purchase your interest in Hicks Broadcasting, correct?
 (8) A In those original documents?
 (9) Q Right.
 (10) A In the beginning of the paper trail?
 (11) Q Right. So that when you submitted this application to the Commission, your representation to the Commission was that there was no such understanding, correct?
 (12) A Well, my representation to the Commission that there was no - that that was a correct statement, of which it was.
 (13) Q You've already testified that you had agreed with Mr. Dille, even before August 17th of '93 -
 (14) A Right.
 (15) Q (Continuing) - that his kids would have the right to purchase your shares from you when and if that became possible, correct?

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- (1) A Right.
 (2) Q Why, then, did you not disclose that to the Commission?
 (3) A I think there is a follow-up exhibit that went to the Commission.
 (4) Q What you're saying is, there was a later document where this was disclosed?
 (5) A Yes.
 (6) Q But at the time that you submitted this application you did not disclose it?
 (7) A But it's a paper trail situation. Now, whether the attorney failed to include those papers within the original documents or whether he overlooked compiling those documents at that time, it's a paper trail issue.
 (8) Q Well -
 (9) A And the Commission accepted it.
 (10) Q As of December 21, 1993 -
 (11) A Right.
 (12) Q (Continuing) - there was no document for the attorney to disclose, was there?
 (13) A But all those go back.
 (14) Q Listen to my question, please, and answer it. As of December 21, 1993, there was no document for the attorney to disclose regarding this option right of the Dille kids, was there?
 (15) A Well, I don't know where the document was. It might have

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- (1) been in Washington; it might not have been prepared at that time.
 (2) Q It wasn't prepared at that time, was it?
 (3) A I don't know.
 (4) Q Well, I'm showing you what was previously marked as Deposition Exhibit 10. That's the operating agreement, correct?
 (5) A Correct.
 (6) Q And it's that operating agreement which contains that right for the Dille kids to purchase your interest,

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- (11) correct, under Paragraph 7.4-B.
 (12) A Right.
 (13) Q And that wasn't prepared until March of 1994, correct.
 (14) just prior to the transaction closing?
 (15) A I don't know. It was probably an oversight -- the
 (16) documents were probably all around. It was an oversight
 (17) on filing it. I have never seen a hundred percent
 (18) documents go to the Commission at one time, in anything
 (19) I've been involved in.
 (20) Q Well, the Commission approved this transfer on March
 (21) 31st, 1993, correct?
 (22) A March 31st.
 (23) Q Right. At the time the Commission approved the transfer,
 (24) it had nothing which would indicate to it that the Dille
 (25) kids had this option to purchase your interest, isn't

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- (1) that true?
 (2) A I don't know what they had.
 (3) Q Showing you a document that was previously marked as
 (4) Exhibit 20, that's a letter that you received from Alan
 (5) Campbell, correct?
 (6) A Yes.
 (7) Q And the letter from Alan Campbell --
 (8) A Apparently those documents were separated from the
 (9) report.
 (10) Q The letter from Alan Campbell indicates the report was
 (11) filed on April 29th, correct?
 (12) A The ownership section?
 (13) Q Correct. Was filed on April 29th?
 (14) A The ownership report was filed.
 (15) Q That was after the Commission had already approved the
 (16) transfer, correct?
 (17) A That's correct.
 (18) Q And in approving the transfer, the only document the
 (19) Commission had that addressed the issue of option rights
 (20) was your representation to them that there was no such
 (21) agreement, correct?
 (22) A That's all they had.
 (23) Q Mr. Campbell provided the opinion letter - which I now
 (24) can't find - to Crystal Radio Group? Mr. Campbell
 (25) provided the Deposition Exhibit 4, the opinion letter, to

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- (1) Crystal Radio Group?
 (2) A Correct.
 (3) Q Dated March 31st, 1994, correct?
 (4) A Right.
 (5) Q Mr. Campbell's opinion letter does not acknowledge
 (6) anywhere that the Dille children had the option to
 (7) purchase your shares, does it?
 (8) A I don't know that that was called for.
 (9) Q Do you know whether it was disclosed to Mr. Campbell
 (10) before he prepared this opinion letter?
 (11) A It was disclosed.
 (12) Q How do you know that?
 (13) A Because the whole -- the whole package was disclosed to
 (14) Mr. Campbell.
 (15) Q What package?
 (16) A The whole package of the deal.
 (17) Q When you say the whole package, do you mean Exhibit 15?
 (18) A I mean the whole package from Rick Brown went to Alan
 (19) Campbell.
 (20) Q Do you know whether Rick Brown disclosed to Alan
 (21) Campbell --
 (22) A Oh, I don't know.
 (23) Q (Continuing) -- prior to March 31st, 1994 --
 (24) A My assumptions are he did.
 (25) Q Let me finish my question. Do you know whether Rick

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- (1) Brown disclosed to Alan Campbell prior to March 31st,
 (2) 1994 that there was an option for the Dille children to
 (3) purchase your stock?
 (4) A My assumptions are there was, because it was discussed
 (5) earlier in the process.
 (6) Q Do you recall?
 (7) A No. No, I don't recall.
 (8) Q Do you recall that after Mr. Sackley received this letter
 (9) he called Alan Campbell and asked him whether he was
 (10) aware?

- (11) A I don't know that he called Mr. Campbell.
 (12) Q You don't know about any communications between Mr.
 (13) Sackley and Mr. Campbell?
 (14) A No, I don't.
 (15) Q Would you be surprised to learn that at the time Mr.
 (16) Campbell drafted his opinion letter he was not aware of
 (17) the option by the Dille children to purchase your
 (18) interest?
 (19) A I would be surprised.
 (20) Q Have you ever discussed with Mr. Campbell whether if he
 (21) knew about the Dille children's option to purchase your
 (22) shares, whether that would have changed his opinion?
 (23) A No, it would not have changed his opinion.
 (24) Q Well, have you ever discussed it with him?
 (25) A No.

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- (1) Q Do you know whether Mr. Sackley has discussed it with
 (2) him?
 (3) A I didn't know that Mr. Sackley had talked with him, no.
 (4) Q Well, if you haven't talked with him, then you don't know
 (5) whether or not knowledge of that fact would have changed
 (6) his opinion, do you?
 (7) A No.
 (8) Q And you don't know whether Mr. Sackley has talked to him,
 (9) correct?
 (10) A I don't know that, no.
 (11) Q Would you agree with me that, without information about
 (12) the option of the Hicks (sic) children to purchase your
 (13) interest, this letter is incomplete?
 (14) A No. I have no -- I have no thoughts of why the Dille
 (15) children's option would have anything at all to do with
 (16) the legality of the purchase of that radio station.
 (17) Q Do you recall that John Dille told you that his children
 (18) could not be majority owners in Hicks Broadcasting of
 (19) Indiana, LCC, because then they would have an
 (20) attributable interest in that corporation?
 (21) A Possibly.
 (22) Q And do you recall him saying that if they had an
 (23) attributable interest in Hicks Broadcasting of Indiana,
 (24) they also had an attributable interest in Federated
 (25) Media, and the cross-ownership rules would apply?

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- (1) A Yeah. I don't know. I don't know about that.
 (2) Q Is that inconsistent with what he told you?
 (3) A I don't know that we even discussed that that much. But
 (4) possibly.
 (5) Q Did you ever discuss with any FCC attorney whether the
 (6) Hicks (sic) children having the option to acquire your
 (7) interest was by itself sufficient to create for them an
 (8) attributable interest in Hicks Broadcasting of Indiana,
 (9) LCC?
 (10) A I don't understand your question. You said the Hicks
 (11) children.
 (12) Q I'm sorry. Did you ever discuss with an FCC attorney the
 (13) issue of whether the Dille children having that option --
 (14) A Right.
 (15) Q (Continuing) -- would be sufficient to give them an
 (16) attributable interest in Hicks Broadcasting of Indiana,
 (17) LCC?
 (18) A No. I personally, no.
 (19) Q Would it surprise you to learn that it would be
 (20) sufficient to give them --
 (21) A It would surprise me.
 (22) Q Why would that surprise you?
 (23) A I just -- I don't know that it's an issue.
 (24) Q Do you agree with me that by going ahead with this deal
 (25) before you gave the board this opinion letter you created

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- (1) a number of questions about how this could impact Crystal
 (2) Radio Group?
 (3) A No, I don't agree with you.
 (4) Q Do you agree with me you gave the board no opportunity to
 (5) reflect on the impact of this transaction and discuss how
 (6) it might impact them?
 (7) A No. I don't think it was an issue.
 (8) Q You do agree with me that you totally ignored the board's
 (9) direction to supply them with an opinion letter before
 (10) you went ahead with the transaction?

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- (11) MR. JONKER: Objection. I think that's an
 (12) argumentative statement or question.
 (13) Q You may answer.
 (14) A Yeah, I don't - I fulfilled my obligations.
 (15) Q You didn't do what the board asked you to do, did you?
 (16) A I fulfilled my obligations.
 (17) Q Well, your obligations were to supply the board with an
 (18) opinion letter three business days before you signed any
 (19) oral or written agreement, correct?
 (20) A It - I fulfilled my obligations.
 (21) Q Well, let's follow through with my question, if you can
 (22) listen carefully. Your obligation, your direction from
 (23) the board of Crystal Radio Group, was to supply the board
 (24) with an attorney opinion letter three business days
 (25) before you signed any oral or written agreement related

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- (1) to the WRBR transactions, correct?
 (2) A Correct.
 (3) Q You signed the document, the asset purchase agreement,
 (4) November 30th, 1993, correct?
 (5) A I think we're getting all hung up on dates. I don't know
 (6) when these things were filed.
 (7) Q Yes, we are. Can you focus on my question?
 (8) A Yeah.
 (9) Q You signed this November 30th, 1993, correct?
 (10) A It might have been later. It might have been earlier. I
 (11) have no idea.
 (12) Q It's dated November 30th, 1993, correct?
 (13) A Yeah. But that's - when you have - you have legal
 (14) papers stacked up, they can have dates on them when they
 (15) come out of the word processor.
 (16) Q Is it your practice to sign documents that are not
 (17) properly dated?
 (18) A I think I have, yes.
 (19) Q In this particular case, we know for certain that you had
 (20) signed it by December 22, 1993, correct?
 (21) A Yes.
 (22) Q And you didn't supply the attorney opinion letter 'til
 (23) March 31st, 1994, correct?
 (24) A Right.
 (25) Q That was not three business days before you signed the

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- (1) document, was it?
 (2) A Right. I think the statement in there said that Rick
 (3) Brown would take care of that situation. And it was
 (4) agreed by the board that he would do that.
 (5) Q Well, that was the January board meeting, correct?
 (6) A Right.
 (7) Q That was after you had already signed it, correct?
 (8) A Uh-huh.
 (9) Q The answer is yes?
 (10) A Right. Evidently, according to the dates.
 (11) Q And the September board meeting is when you were asked
 (12) to get the opinion letter three business days before?
 (13) A Yes.
 (14) Q And that you totally ignored?
 (15) MR. JONKER: I object.
 (16) A I didn't ignore it.
 (17) Q You didn't comply with it?
 (18) A I tried to.
 (19) Q How did you try to?
 (20) A By asking Rick Brown to go ahead and do this.
 (21) Q Well, according to the minutes, Rick Brown wasn't asked
 (22) 'til January of '94, which was after you had signed it?
 (23) A Rick Brown was in on the board meeting. He was there.
 (24) He knew about the request. He was the man that was
 (25) taking care of it for me.

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- (1) Q The September 28, 1993 board minutes do not say that Rick
 (2) Brown is going to help you obtain an opinion letter, does
 (3) it?
 (4) A Not in those minutes.
 (5) Q That doesn't come up 'til January 28th, 1994, correct?
 (6) A Right.
 (7) Q Are you saying that, even though the minutes don't say
 (8) it, Rick Brown was supposed to get you that attorney
 (9) opinion letter -

- (10) A We talked about it.
 (11) Q Let me finish my question. Are you saying, even though
 (12) the minutes don't reflect it, Rick Brown was supposed to
 (13) get you that attorney opinion letter in September of '93?
 (14) MR. JONKER: I object to the form of the
 (15) question. We've been over the grounds. And until the
 (16) point that we're going to go back to the 'minute, if you
 (17) want to go back to the minutes, there is nothing in the
 (18) September minutes.
 (19) MR. LUBBEN: State your objection. Don't tell
 (20) the man what to say.
 (21) MR. JONKER: We have been talking about this.
 (22) MR. LUBBEN: State your objection. What is
 (23) your objection?
 (24) MR. JONKER: The objection is that I think
 (25) you're confusing him and I think that we're beyond -

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- (1) we're now stretching-back and saying now the minutes -
 (2) MR. LUBBEN: If the question is confusing -
 (3) In fact, would you read back the question.
 (4) (Last question read back by the court
 (5) reporter.)
 (6) Q Do you understand that question?
 (7) A Uh-huh.
 (8) Q The answer is yes?
 (9) A The answer is yes.
 (10) Q Can you answer it, please?
 (11) A Yes.
 (12) Q And what is your answer?
 (13) A Yes.
 (14) Q At the time you signed the asset purchase agreements in
 (15) November of 1993, did you ask Rick Brown why you did not
 (16) yet have an attorney opinion letter?
 (17) A I don't recall.
 (18) Q Did you ask him whether this was something you needed to
 (19) review with the board?
 (20) A I don't recall.
 (21) MR. JONKER: Are you about to start a new line
 (22) of questioning?
 (23) MR. LUBBEN: Yes.
 (24) MR. JONKER: Since it's obvious we're not going
 (25) to finish, can we just break for the day and come back?

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- (1) I mean, can we finish in another day?
 (2) MR. LUBBEN: I believe we'll finish in another
 (3) day.
 (4) MR. JONKER: All right.
 (5) MR. LUBBEN: Although we didn't get as far as I
 (6) thought we would, but I think we can finish in another
 (7) day.
 (8) MR. JONKER: Okay. Well, why don't we break
 (9) for the day, then. And then we can try to set something
 (10) else up and see if we can - you can go off the record.
 (11) MR. LUBBEN: Go off the record.
 (12) (Deposition adjourned.)

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- (1) CERTIFICATE
 (2) State of Michigan)
 (3)) ss
 (4) County of Kalamazoo)
 (5) I, Jennifer N. Van Alstine, Notary Public
 (6) in and for Kalamazoo County, Michigan, do hereby certify
 (7) that the foregoing deposition of DAVID HICKS, was taken
 (8) before me at the time and place hereinbefore set forth,
 (9) and that said witness was duly sworn by me to tell the
 (10) truth and nothing but the truth, and thereupon was
 (11) examined and testified as in the foregoing deposition
 (12) appears:
 (13) That this deposition was taken in shorthand and
 (14) thereafter transcribed by me, and that it is a true and
 (15) correct transcript of my original shorthand notes.
 (16) IN WITNESS WHEREOF, I have hereunto set my hand
 (17) and seal this 2nd day of January, 1996.
 (18) _____
 (19) Notary Public in and for
 (20) Kalamazoo County, Michigan
 (21) My commission expires May 19, 1996.

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ATTACHMENT J

0001

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF KALAMAZOO

DAVID L. HICKS,

Plaintiff,

-vs-

File No.: E 94-3603-MZ

VOLUME II

CRYSTAL RADIO GROUP, INC.,

a Michigan corporation,

EDWARD J. SACKLEY, III,

individually and as Trustee of

the EDWARD J. SACKLEY, II,

RICHARD C. DOERING,

JOHN N. STRANDIN,

JANICE J. SACKLEY, individually

and as Trustee of the

Janice J. Sackley Trust,

RICHARD R. ZARACOEZA,

ELISE R. ZARACOEZA and

EDWARD J. SACKLEY, Trustee of

the Edward J. Sackley Trust.

Defendants.

Continuation of the deposition of DAVID HICKS, taken under the provisions of the Michigan Court Rules before Jennifer M. Van Alstine, RPR-CM (CM 0038), Certified Shorthand Reporter and Notary Public, at 435 West Michigan Avenue, Kalamazoo, Michigan, on Thursday, December 28th, 1995, commencing at or about 9:00 a.m., pursuant to Notice.

VAN ALSTINE REPORTING

Certified Shorthand Reporters
233 West Michigan Avenue, Suite B
Kalamazoo, Michigan 49007
1-800-825-1233 or 616-344-4716
FAX - 616-344-6459

0003

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MR. CRAIG H. LUBBEN
Attorney for Defendants
435 West Michigan Avenue
Kalamazoo, Michigan 49007

ALSO PRESENT:

Mr. Ed Sackley

INDEX

WITNESS:

JOHN HICKS

Cross-Examination by Mr. Lubben (Cont.)

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- (1) PROCEEDINGS
- (2) MR. LUBBEN: The record should reflect this is
- (3) the continuation of the deposition of David Hicks.
- (4) DAVID HICKS
- (5) being duly sworn by the reporter, was examined and
- (6) testified under oath as follows:
- (7) CROSS-EXAMINATION (Continued)
- (8) BY MR. LUBBEN:
- (9) Q Mr. Hicks, a couple of questions before we pick up from
- (10) where we left off last time. First of all, have you
- (11) looked at any additional documents since the last
- (12) deposition to prepare yourself for testimony today?
- (13) A I reviewed the - just briefly, I reviewed the
- (14) application documents on WRBR.
- (15) Q And this is the application that was submitted to the
- (16) FCC?
- (17) A Yes.
- (18) Q And when did you review that application?
- (19) A Probably the end of last week.
- (20) Q Was anyone with you when you reviewed that application?
- (21) A No.
- (22) Q Did you review any other documents in preparation for the
- (23) continuation of the deposition?
- (24) A No, I did not.
- (25) Q And did you speak with anyone other than your lawyer in

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- (1) preparation for the continuation of the deposition today?
- (2) A No, I did not.
- (3) Q Just a reminder to try to let me finish my question
- (4) before you start your answer. And I'll try to let you
- (5) finish your answer before I begin my next question.
- (6) My recollection is that we were talking about
- (7) the January of 1994 meeting of the Board of Directors of
- (8) Crystal Radio Group about the time that we broke off
- (9) last. I'm going to show you a document that was
- (10) previously marked as Deposition Exhibit 8.
- (11) A Yes.
- (12) Q And those are the minutes from that particular meeting of
- (13) the board. You testified last time that prior to the
- (14) board meeting you discussed the issue of corporate
- (15) opportunity with Rick Brown and Ed Sackley; is that
- (16) correct?
- (17) A Prior to this board meeting?
- (18) Q Correct.
- (19) A There was a discussion with Rick Brown and Mr. Sackley
- (20) regarding corporate opportunity. I believe it probably
- (21) was prior to this board meeting. However, I'm not
- (22) totally clear on this board meeting.
- (23) Q In any event, at the January 28th, 1994 board meeting do
- (24) you recall the issue of your transaction with respect to
- (25) acquiring WRBR being discussed at the board meeting?

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- (1) A At this board meeting?
- (2) Q Yes.
- (3) A There is a note - notice on the minutes that we did,
- (4) yes.
- (5) Q Do you have any independent recollection of the
- (6) discussion, other than what's contained in the minutes?
- (7) A No.
- (8) Q Did you at that particular meeting explain to the board
- (9) that you had recently filed with the FCC regarding your
- (10) 51 percent ownership of Hicks Broadcasting Company of
- (11) Indiana, LLC, purchaser of WRBR?
- (12) A As it states here, I explained the transaction recently
- (13) filed with the FCC.
- (14) Q Did the board remind you of their previous instruction to
- (15) furnish them with a legal opinion from an FCC attorney on
- (16) the possible impact of the transactions on Crystal Radio?
- (17) A It also states in here that the board reminded Dave of
- (18) the previous instructions to furnish Crystal Radio with a
- (19) legal opinion. And Eric Brown agreed to assist.
- (20) Q Do you remember that happening?
- (21) A Well, if it says it here, I'm assuming it did.
- (22) Q Do you have any independent recollection of it happening?
- (23) A No, not other than this. I knew it was a topic of
- (24) conversation.
- (25) Q At the conclusion of the January 28th, 1994 board

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- (1) meeting, what did you understand you were supposed to do
- (2) next by way of keeping the board advised as to this WRBR
- (3) transaction?
- (4) A That I would keep them advised, to the best of my
- (5) ability, of information that I had.
- (6) Q Did the board discuss what would happen if they were
- (7) unsatisfied or dissatisfied with the FCC attorney
- (8) opinion?
- (9) A That was never discussed.
- (10) Q Did the board discuss in any way what would happen if
- (11) they concluded that there was too much risk to Crystal
- (12) Radio Group for you to proceed with the WRBR transaction?
- (13) A No.
- (14) Q What was the next discussion that you can recall having
- (15) with Ed Sackley about the WRBR transaction after this
- (16) January 28, 1994 board meeting?
- (17) A I don't recall any specifics.
- (18) Q The transaction for the transfer of the WRBR license was
- (19) approved March 31st of 1994; is that right?
- (20) A I believe, that's correct.
- (21) Q Did you have any discussions with Ed Sackley about that
- (22) WRBR transfer after January 28th but prior to the
- (23) approval by the FCC on March 31st of 1994?
- (24) A I don't - I don't recall. I had no indication when the
- (25) Commission would approve the transfer.

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- (1) MR. LUBBEN: Let's have this marked as Exhibit
- (2) 25.
- (3) (Defendant's Deposition Exhibit 25 marked for
- (4) identification.)
- (5) Q Showing you a document I've had marked as Deposition
- (6) Exhibit 25, do you recognize that?
- (7) A Well, I recognize that as my signature, yes.
- (8) Q Is that a memo that you sent to Ed Sackley on or around
- (9) March 17th of 1994?
- (10) A It looks like it is, yes.
- (11) Q And attached to the memo are a number of other papers?
- (12) A Uh-huh.
- (13) Q Those are papers that you gave to Mr. Sackley to keep him
- (14) informed of the WRBR transaction?
- (15) A These look like they're all part of the approval plan. I
- (16) don't recall all of this together, but evidently it's
- (17) there.
- (18) Q Fair to say that as of the time the FCC had approved the
- (19) transfer to WRBR you had not provided the Crystal Radio
- (20) Group board of directors with the opinion letter from the
- (21) FCC attorney, as they had requested in September of '93
- (22) and again in January of '94?
- (23) A I supplied the board with all the documents that I had
- (24) available to me.
- (25) Q And that did not include an opinion letter from the

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- (1) attorney, as they had requested, correct?
- (2) A As the minutes stated, Mr. Brown had talked to Mr.
- (3) Zaragoza. Mr. Zaragoza indicated he could not furnish an
- (4) opinion letter. That obviously was delayed. Mr. Brown
- (5) again agreed to assist in obtaining an opinion letter.
- (6) At that point Mr. Brown was charged with obtaining the
- (7) opinion letter. We were trying to supply all the
- (8) documents necessary as quickly as we could obtain the
- (9) documents.
- (10) Q Was Mr. Brown charged with obtaining that opinion letter
- (11) in his capacity as your attorney?
- (12) A That's correct, and also as a directive of the board of
- (13) Crystal Radio.
- (14) Q That was my question. Was he acting then as a member of
- (15) the board or was he acting as your attorney or was he
- (16) acting as board -
- (17) A I think he was acting as both.
- (18) Q Now, the minutes of January 28th, 1994, previously marked
- (19) as Exhibit 8, say that Eric Brown agreed to assist Dave
- (20) with obtaining the opinion, which will not be an expense
- (21) of Crystal. Was it your understanding that this opinion
- (22) was to be at your expense?
- (23) A Well, if it wasn't the expense of Crystal, then yes.
- (24) Q And it was your understanding that Eric Brown was going
- (25) to assist you in obtaining that opinion?

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- (1) A That's correct.
- (2) Q Mr. Brown did not assist you and you did not obtain an opinion letter prior to the opinion set forth in Exhibit 4?
- (3) A No. We obtained the opinion letter as quickly as we could. We started out with Mr. Zaragoza and ended up with Mr. Campbell.
- (4) Q You understood, based on the September 28, 1993 board meeting, that the board wanted that letter three business days before you closed the WRBR transaction, correct?
- (5) A It obviously was impossible to obtain within those particular times. We supplied all the documents that were requested in the time frame that we could possibly get them.
- (6) Q I want you to listen to my question. My question was, you understood that the board wanted that opinion letter three business days before you closed the WRBR transaction?
- (7) A No.
- (8) Q Focusing on Exhibit 9, you understood that the board - in fact, I misspoke - that the board wanted an opinion and a review of no less than three business days before you entered into any written, oral agreement or option regarding WRBR?
- (9) A Right.

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- (1) MR. JONKER: Object to the form of the question because I don't think that Exhibit 9 speaks for what the board wanted. It simply is an agenda. I'm looking for the minutes of that meeting, which I think Dave has previously testified are his view of the statement of the board, but I don't see the minutes right now.
- (2) MR. LUBBEN: Objection noted.
- (3) Q But you understood that is what the board wanted?
- (4) A That was in discussion, that's correct. We had - we tried to obtain all the documents requested as quickly as possible.
- (5) Q And you understood the board -
- (6) A We didn't withhold any documents to anyone.
- (7) Q And you understood the reason the board wanted the opinion letter before you entered into the agreement was so that, if the opinion indicated there would be a problem with Crystal's license by your doing this, they could ask you to stop, or at least discuss it with you?
- (8) A That's correct.
- (9) Q But, for whatever reason, you were unable or did not obtain the opinion letter before you signed any agreements, correct?
- (10) A I was - I was at the - working within the agenda of my corporate counsel.
- (11) Q Let me make sure I understand your answer. You did not

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- (1) obtain the opinion letter before you signed the documents, did you?
- (2) A The opinion letter was in the process of being supplied. I was following the framework of my corporate counsel.
- (3) Q You did not obtain the opinion letter?
- (4) A That's my answer, Craig.
- (5) Q I know, but you're not answering the question.
- (6) A But that's my answer.
- (7) Q But I would like an answer to my question. I understand you want to say that, but I think I'm entitled to an answer to this question, and it's a yes or no answer, really.
- (8) You did not obtain the opinion letter -
- (9) A Certainly the dates reflect a no answer.
- (10) Q In other words, that you did not obtain the opinion letter before you signed an agreement?
- (11) A But the question insinuates something else.
- (12) Q I understand your concern about the insinuation. I just want an answer to the question.
- (13) A You got it.
- (14) Q And am I correct the answer is you did not obtain an opinion letter?
- (15) A Following the date time line, the answer is no.
- (16) Q And, in addition, you did not obtain an opinion letter before the FCC approved the transfer, correct?

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- (1) A If we follow the date structure, yes, but I had no authority, I had - on when the - I could not determine when the FCC would make the closing - or give the final approval.
- (2) Q Now, the board meeting where the board requested this letter was September 28, 1993, correct?
- (3) A That's in the agenda.
- (4) Q The approval of the transfer occurred sometime before March 17, 1994, based on Exhibit 25, correct?
- (5) A Yes.
- (6) Q So there is approximately six months that passed from the time the board requested the attorney letter until the transaction was approved, correct?
- (7) A Correct.
- (8) Q Why couldn't you obtain an attorney's opinion letter in those six months?
- (9) A That was - I was following the - my corporate agenda.
- (10) Q So would you say, then, it was the fault of Rick Brown?
- (11) A I'm not saying it's a fault of Rick Brown. He was the corporate counsel for Crystal Radio.
- (12) Q Are you saying, though, that it was Rick Brown's failure to assist you that prevented you from getting the letter?
- (13) A It's not - it's not for me to say whether it's a failure of Rick Brown or not. He was charged with that - to do it.

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- (1) Q By you?
- (2) A By me and by Crystal Radio.
- (3) Q When did Crystal Radio charge him with that?
- (4) A Well, it was in discussion all along that he - from day one, when Rick Brown and I made the board members aware of this whole thing, that he would follow this thing through as corporate counsel for Crystal Radio and for myself.
- (5) Q Focusing on Exhibit 8, the minutes reflect that the board reminded you of the instruction for you to furnish Crystal Radio a legal opinion, correct?
- (6) A Right.
- (7) Q And that Eric Brown simply agreed to assist you with obtaining the opinion, correct?
- (8) A Well, that's the way it's written, but Eric Brown was corporate counsel for myself and corporate counsel for Crystal Radio to obtain that.
- (9) Q And you understood that he was to assist you?
- (10) A That's correct.
- (11) Q And you understood why the board wanted the letter?
- (12) A Well, I understood why the board wanted the letter, yes.
- (13) Q But by failing to provide the board with the letter before you went through with the transaction, the board was not able to review whether or not this would impact Crystal Radio before you went through with the deal, were

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- (1) they?
- (2) A I think there were many conversations with Mr. Brown and Mr. Sackley regarding that. And whatever conversation he told him evidently satisfied Rick Brown.
- (3) Q And whether or not it satisfied Rick Brown, by failing to supply the board with the letter until after the transaction was closed, would you agree with me you precluded the board from stopping the transaction if they didn't like what the letter said?
- (4) A Well, that's quite possible.
- (5) Q Now, in Exhibit 25, the memo and attachments that you provided to Mr. Sackley on or around September 1994, it does not mention you holding this station in anticipation of John Dille acquiring it sometime in the future, does it?
- (6) A Please restate that question.
- (7) Q Sure. Exhibit 25 does not mention that you would be holding WRBR with the intent of transferring it to John Dille at some point in the future?
- (8) MR. JONKER: I object to the form of the question to the extent it suggests that was the intent.
- (9) But you can answer.
- (10) A There would be no reason to have that exhibit state that.
- (11) Q And why not?
- (12) A Because that wasn't the intent.

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- (1) Q Back in September of '93, you had told the Crystal Radio board of directors that you would be holding WRBR with the intent to transfer it to John Dille at some point in the future when that became permissible, did you not?
- (2) A I did not.
- (3) Q Did you ever tell the board anything like that, that is, anything like you were holding or would be holding WRBR for the benefit of John Dille until at some point in the future he could own it?
- (4) A I did not.
- (5) Q Never said anything like that?
- (6) A There was a discussion about the joint sales agreement, joint operating agreement, and a discussion on why Mr. Dille could not own that radio station. That, to my recollection, is the only discussion we had regarding his possible ever ownership of that radio station, the fact that he was precluded from buying that radio station.
- (7) Q Did you discuss with the board any thought that at some point the rules in the future may change and he would be able to own the station?
- (8) A I don't recall that conversation, no, but that was a possibility.
- (9) Q Did you discuss with the board any possibility that if that happened you might transfer the station to John Dille at that time?

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- (1) A No, I did not.
- (2) Q Did you discuss with the board any possibility that John Dille's children might purchase your interest in the station?
- (3) A No.
- (4) Q We know from the other documents, Exhibit 10, that you did have an agreement with the Dille children?
- (5) A That's correct.
- (6) Q Wherein they would have the option to purchase your interest?
- (7) A That's correct.
- (8) Q Exhibit 25 does not mention that option anywhere, does it?
- (9) MR. JONKER: Well, I object to the form of the question. Exhibit 25 predates the operating agreement that you reference in Exhibit 10, and I think the question suggests that there was a pre-existing agreement to be disclosed.
- (10) Q Well, referencing Exhibit 13, as of August 17th, 1993, you had already agreed with John Dille that his children would have an arrangement, option or agreement to repurchase from you your shares when and if that became possible, correct?
- (11) A There was a discussion regarding that, that's correct.
- (12) Q And that discussion occurred before August of 1993,

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- (1) correct?
- (2) A I am not sure of the exact date of that discussion.
- (3) Q In fact, that was one of the things that John Dille talked to you about from the very first time he talked about this transaction; isn't that true?
- (4) A No, it's not true. That particular issue came up later.
- (5) Q Well, you first discussed this transaction with John Dille on or around June or July of 1993, correct?
- (6) A Right.
- (7) Q And certainly by August 17th of 1993 you had a discussion and an agreement with him that his kids would have this option?
- (8) MR. JONKER: Objection. That's a compound question. You can answer.
- (9) A We had no agreement. We had a discussion about it.
- (10) Q When did you have the agreement?
- (11) A I'm not really sure when that agreement was drafted. Mr. Brown, again, was charged with that.
- (12) Q We know the operating agreement was submitted to the Commission in 1994, correct?
- (13) A This is the joint sales agreement.
- (14) Q No, I'm talking about the operating agreement for Hicks Broadcasting of Indiana, LCC, previously marked as Exhibit 10.
- (15) A It was filed with the Commission.

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- (1) Q My question is simply this: Is it your contention that you had no agreement with John Dille's children as to the option to purchase your shares until this agreement was signed?
- (2) A I can't tell you the dates that we agreed to the Dille children agreement. It was a matter of discussion somewhere along the line before the whole thing was put together. When the actual documents were - when the agreement was made and the documents were drafted, I can't tell you those dates.
- (3) Q But you had an oral agreement, and the documents were drafted later to try to comply with your oral agreement. Fair statement?
- (4) A That's correct. Sure.
- (5) Q And you're not sure when that oral agreement was reached?
- (6) A No. No. But there's a matter of business discussions, and there were a lot of things discussed.
- (7) Q But certainly that was being discussed as of August 17th, 1993, correct?
- (8) A I think it was a - certainly a discussion point from Mr. Dille to myself, certainly.
- (9) Q And John Dille was representing that his children would have an agreement or an arrangement or option to purchase your shares?
- (10) A You're suggesting they would.

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- (1) Q I'm not suggesting. He said they would; is that correct?
- (2) MR. JONKER: He can read the memo, as anybody else. What he would say Dille would say -
- (3) A I didn't write that memo. Dille wrote that memo.
- (4) Q Was it your understanding as of August 17th, 1993 Mr. Dille's children would have arrangement, option or agreement -
- (5) A Craig, I can't tell you dates. I don't know.
- (6) Q Did you discuss the WRBR transaction with Ed Sackley after supplying him with Exhibit 25?
- (7) A That's -
- (8) Q That's your memo informing him that the Commission had approved the application and that a closing was scheduled for the week of March 28th.
- (9) A I don't recall. I'm assuming there was probably some discussion, but I don't recall.
- (10) Q The closing of the WRBR transaction, was there a physical closing where you went someplace and met with the other side and signed documents?
- (11) A If I recall, the documents were signed from my side in Rick Brown's office, from John Booth's side in Detroit.
- (12) I believe that was the way it was.
- (13) Q Who was present when you signed your documents?
- (14) A Rick Brown and an associate.
- (15) Q Do you remember who the associate was?

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- (1) A No, I don't.
- (2) Q After the transaction for the transfer of WRBR was closed, what did you do with respect to operating WRBR?
- (3) A We had in place a general manager, Steve Kline. Steve Kline was given operating instructions at that particular point. The physical operation of the radio station was moved from one location into the offices of an existing radio station owned by John Dille. And we were in business.
- (4) Q You may have discussed this last time, but who selected Steve Kline as the general manager?
- (5) A I believe I did. I believe I - I was in on the interview process, but -
- (6) Q Who else interviewed?
- (7) A John Dille.
- (8) Q Who else?
- (9) A I think those were the only two people.
- (10) Q And Mr. Kline was the general manager of another station, as well, was he not?
- (11) A Mr. Kline came to us from Australia, had been working in radio in Australia.
- (12) Q Did he also not become the general manager of one of Mr. Dille's stations in addition to WRBR?
- (13) A That's correct.
- (14) Q And what was that other station, if you know?

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- (1) A Well, at that time it was called WLTA, which is now WBYT
- (2) Q And you say Mr. Kline came from an Australia station.
- (3) Had he worked for Mr. Dille prior to going to Australia?
- (4) A He worked for Mr. Dille, to my understanding, some years before.
- (5) Q Did you advertise this general manager position, or how did you get your applicants?
- (6) A We were at a - I think he applied - he applied, along with some others. We had talked to a couple of others.
- (7) Q How did you make it known that this position was available, or weren't you involved in that?
- (8) A I was not involved in that.
- (9) Q Who was responsible for advertising?
- (10) A Mr. Dille, I believe.
- (11) Q Did you interview everyone that applied, or was there some sort of selection process -
- (12) MR. JONKER: Let him finish the question.
- (13) Q Did you interview everyone that applied, or was there a selection process where you went through resumes and weeded some even without an interview?
- (14) A I personally only interviewed two people.
- (15) Q Did you participate at all in the process of deciding who to interview?
- (16) A No.
- (17) Q Who did that?

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- (1) A I think Mr. Dille.
- (2) Q Who was interviewed for the position?
- (3) A I don't recall the gentleman's name. Like I say, I was in on two.
- (4) Q Were there more interviews for the position besides the two you were in on, to your knowledge?
- (5) A It's a possibility. I can't answer that.
- (6) Q When was Mr. Kline interviewed?
- (7) A Again, I can't tell you the dates. It seems like he was interviewed at a fall radio show in Dallas, Texas, but I'm not sure exactly. That would have been in September, October.
- (8) Q Of 1993?
- (9) A I don't know the dates.
- (10) Q We know the transaction closed in March of '94, correct?
- (11) A Right.
- (12) Q And it's your recollection that Mr. Kline was in place at the time of the closing to begin immediately acting as general manager; is that right?
- (13) A Well, then that's not correct, either. It was at a - it was at an earlier NAB show, then. It was probably in the spring of that time.
- (14) Q Is it your recollection that Mr. Kline was in place ready to act as general manager of WRBR -
- (15) A Yes.

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- (1) Q (Continuing) - at the time the transfer was approved by the FCC?
- (2) A Yes. Yes.
- (3) Q Now, you mention that upon the closing WRBR was physically moved from one location to the physical operation of another of Mr. Dille's stations; is that right?
- (4) A A short time thereafter.
- (5) Q And that station was WLTA, now known as WBYT?
- (6) A Right.
- (7) Q Did any of Mr. Dille's children participate in the interview or selection of Mr. Kline as general manager?
- (8) A Not to my knowledge.
- (9) Q After the closing, what happened with the letter of credit that you had posted in escrow for the acquisition of WRBR?
- (10) A What happened to the letter?
- (11) Q Right.
- (12) A I don't understand the question.
- (13) Q Okay.
- (14) A What do you mean, what happened to it?
- (15) Q Was the letter of credit returned to you?
- (16) A The letter of credit was required for one year.
- (17) Q So if the transaction closed on or around March 31st of '94, it was required through March 31st of '95?

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- (1) A That's correct.
- (2) Q What happened on or around March 31st, 1995 to that letter of credit?
- (3) A I canceled the letter of credit.
- (4) Q Did you incur any expenses in connection with that letter of credit?
- (5) A Yes, I did.
- (6) Q And what were the expenses you incurred?
- (7) A To purchase the letter of credit, whatever amount that was.
- (8) Q And did the Dille children reimburse you for the costs you incurred in connection with obtaining that letter of credit?
- (9) A No.
- (10) Q Did anyone reimburse you for the costs you incurred in obtaining that letter of credit?
- (11) A No.
- (12) Q How much did the letter of credit cost you?
- (13) A I don't recall. \$500, possibly. I don't know.
- (14) Q Who paid that \$500?
- (15) A I paid that \$500.
- (16) Q How did you pay it?
- (17) A If it was \$500.
- (18) Q Whatever amount it was, how did you pay it?
- (19) A By a personal check.

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- (1) Q And that personal check was drawn on your own checking account?
- (2) A That's correct.
- (3) Q And so you would have that canceled check available to you if we would like a copy?
- (4) A That would be available.
- (5) Q Looking at Exhibit 10, and in particular the March 31st, 1994 letter attached from you to the Dille children -
- (6) MR. JONKER: Do you know how far back it is?
- (7) MR. LUBBEN: It's just after the - off the record.
- (8) (Discussion held off the record.)
- (9) MR. JONKER: Feel free to look at any part of the exhibit that you want, but this is what he's looking at.
- (10) Q I'm focusing on Paragraph 3, the indemnification of contribution paragraph, where it says that each of them will agree to indemnify and hold you harmless from any costs, losses, claims, liability, et cetera, incurred in connection with the letter of credit. I show you that only because it leads to my question. Why were you not reimbursed for the cost of that letter of credit?
- (11) A I don't think I ever asked anybody to reimburse me.
- (12) Q And why didn't you ask?
- (13) A I don't - I just didn't. It didn't occur to me to.

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- (1) Q Other than the cost of purchasing the letter of credit, whatever that amount is, did you incur any other costs or expenses in connection with the letter of credit?
- (2) A I don't recall any additional.
- (3) Q Focusing on Exhibit 15, which is the application for the transfer, and in particular the asset purchase agreement, Paragraph 2.1(a) indicates that the price that's going to be paid for the station assets and noncompetition agreement is \$660,000, payable in accordance with Section 2.1(a), correct?
- (4) A Correct.
- (5) Q And then Schedule 2.1(a) indicates that first there were to be six monthly payments of \$5,000 each, beginning on the seven month anniversary of the closing date, correct?
- (6) A Correct.
- (7) Q Have those six monthly payments of \$5,000 each been made?
- (8) A Correct.
- (9) Q Did you have to contribute any money to the payment of that \$5,000?
- (10) A Yes, I did.
- (11) Q How much did you contribute?
- (12) A Fifty-one percent.
- (13) Q Did the money come from the operating revenue of WRBR?
- (14) A No.
- (15) Q You had to actually make a contribution?

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- (1) A That's correct.
- (2) Q How did you make the contribution of your 51 percent?
- (3) A By check.
- (4) Q And is this check drawn on your personal account?
- (5) A Correct.
- (6) Q And who did you make the check payable to?
- (7) A Truth Publishing, possibly.
- (8) Q Truth Publishing is one of the companies owned by John Dille?
- (9) A Correct.
- (10) Q Why did you make your check payable to Truth Publishing?
- (11) A Because they were the -- they were the business --
- (12) they're the business manager of both of these entities,
- (13) the joint operating agreement.
- (14) Q Did WRBR generate any revenue to you?
- (15) A No.
- (16) Q You did not receive any payments of any type from WRBR?
- (17) A No.
- (18) Q And if my math is correct, then, beginning with the
- (19) seventh month after closing, you would write a check in
- (20) the amount of \$2,550 each month to Truth Publishing?
- (21) A That sounds correct.
- (22) Q Then continuing with the Schedule 2.1(a) of Exhibit 15,
- (23) it provides that there was to be a payment of \$105,000 on
- (24) the first anniversary of the closing date. Am I correct
- (25) the first anniversary of the closing date. Am I correct

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- (1) that would have been due, then, in March of 1995?
- (2) A That's correct.
- (3) Q Was that \$105,000 paid?
- (4) A That's correct.
- (5) Q Who came up with the money for the \$105,000?
- (6) A The company.
- (7) Q WRBR -- I mean Hicks Broadcasting of Indiana, LCC?
- (8) A That's correct.
- (9) Q Was this income that the company had generated through
- (10) operation?
- (11) A That's correct.
- (12) Q Did you have to contribute anything to the \$105,000?
- (13) A I did not.
- (14) Q Continuing with the Schedule 2.1(a), it says that there
- (15) are to be six monthly payments of \$10,000 each, beginning
- (16) on the first day of the first month after the second
- (17) anniversary of the closing date. I take it those become
- (18) due in March of 1996; is that right?
- (19) A If that's the sequence, correct.
- (20) Q Have you had any discussions as to how those are going to
- (21) be paid?
- (22) A I don't think there is a need to. Those will be taken
- (23) care of.
- (24) Q How?
- (25) A Hopefully, with the cash available from Hicks

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- (1) Broadcasting of Indiana.
- (2) Q The actual operation of WRBR should be able to generate
- (3) enough income to make these payments?
- (4) A I certainly hope so.
- (5) Q And then it says, going on to Paragraph 1(d), that there
- (6) will be 15 monthly payments of \$15,000 each, beginning on
- (7) the first day of the month immediately after payments
- (8) under Paragraph 1(c) are completed. Have you had any
- (9) discussions as to how those are going to be paid?
- (10) A No, I haven't.
- (11) Q Is it your anticipation that those, too, will be paid out
- (12) of the operating income generated by WRBR?
- (13) A Certainly hope so.
- (14) Q Finally, it says there will be a balloon payment on the
- (15) first day of the month immediately following completion
- (16) of payments under paragraph 1(d) above, equal to the
- (17) difference between the sum of 660,000 plus interest minus
- (18) the payments paid under Paragraphs 1(a) through (d)
- (19) above. Have you had any discussions as to how that
- (20) balloon payment is going to be paid?
- (21) A No.
- (22) Q Any discussions with John Dille on that point at all?
- (23) A No.
- (24) Q Am I correct, then, that so far the only money you have
- (25) contributed to the acquisition of WRBR is the cost of the

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- (1) letter of credit plus 51 percent of the six \$5,000
- (2) payments that are described in Paragraph 1(a) of Schedule
- (3) 2.1(a)?
- (4) A That's correct.
- (5) Q Have you been reimbursed anything by Hicks Broadcasting
- (6) of Indiana, LCC, or by WRBR?
- (7) A Regarding the payments?
- (8) Q Right.
- (9) A No.
- (10) Q Have you been reimbursed in any way by anyone for any
- (11) money you've put out for Hicks Broadcasting of Indiana,
- (12) LCC, or WRBR?
- (13) MR. JONKER: You mean like for mileage, or are
- (14) you talking about this 51 percent of the 30,000?
- (15) MR. LUBBEN: Well, I really intended, in case I
- (16) missed anything, for any expense he's incurred on Hicks
- (17) Broadcasting.
- (18) MR. JONKER: That's what I wanted to be clear
- (19) on.
- (20) A There is some travel expense when I go to South Bend
- (21) periodically, yes.
- (22) Q And you're reimbursed for the travel expense?
- (23) A Yes.
- (24) Q By who?
- (25) A By Hicks Broadcasting.

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- (1) Q Who writes the check?
- (2) A Our business office.
- (3) Q Is it a Hicks Broadcasting check or is it a check from
- (4) one of Mr. Dille's companies?
- (5) A I think it's a combined check, I don't recall, from Truth
- (6) Publishing.
- (7) Q Have you been reimbursed in any way for any other costs
- (8) or expenses you incurred for Hicks Broadcasting of
- (9) Indiana, LCC?
- (10) A No, not to my recollection.
- (11) Q What about the attorney's fees that were incurred in
- (12) retaining Alan Campbell to prepare the opinion letter set
- (13) forth in Exhibit 4, who paid those fees, if you know?
- (14) A Hicks Broadcasting paid those fees.
- (15) Q How? In other words, was the check from Hicks
- (16) Broadcasting or was the check from one of Mr. Dille's
- (17) other companies?
- (18) MR. JONKER: I object to the form of that
- (19) question to the extent it suggests that Hicks
- (20) Broadcasting is one of the Dille companies.
- (21) Q Let me rephrase it.
- (22) Did the check come from Hicks Broadcasting or
- (23) did it come from some other company, if you know?
- (24) A I don't know. But we have a business office that is out
- (25) of Truth Publishing, which Hicks Broadcasting contracts

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- (1) to take care of all the issuance of checks, payroll and
- (2) anything else.
- (3) Q Does Hicks Broadcasting of Indiana, LLC, have a checking
- (4) account?
- (5) A No.
- (6) Q Does it have any sort of bank account?
- (7) A No.
- (8) Q All of its accounting is done through Truth Publishing?
- (9) A Through the Truth Publishing entity, right.
- (10) Q And who is the person at Truth Publishing that's
- (11) responsible for overseeing the accounting for Hicks
- (12) Broadcasting of Indiana?
- (13) A Mr. Watson.
- (14) Q Who signs the checks?
- (15) A Mr. Watson.
- (16) Q Do you know whether the Hicks Broadcasting of Indiana,
- (17) LLC expenses are accounted for separately from the other
- (18) expenses of Truth Publishing?
- (19) A Yes.
- (20) Q And how do you know that?
- (21) A Because Hicks Broadcasting has its own financial.
- (22) Q Own financial statement?
- (23) A That's correct.
- (24) Q How often Hicks Broadcasting of Indiana, LLC's financial
- (25) statements prepared?

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- (1) A Monthly.
- (2) Q What about the attorney's fees incurred in the drafting of the various documents for the acquisition of WRBR,
- (3) who paid those attorney's fees?
- (4) A Hicks Broadcasting paid those fees.
- (5) Q Hicks Broadcasting of Indiana, LCC?
- (6) A You mean to Mr. Brown?
- (7) Q Is Mr. Brown the attorney who drafted the asset purchase agreement, or at least represented in connection with the negotiations of drafting that document?
- (8) A That's correct.
- (9) Q And who paid him or his firm for the work that was done in connection with the preparation of these documents?
- (10) A Hicks Broadcasting.
- (11) Q Would that also have gone through the books of Truth Publishing?
- (12) A That's correct.
- (13) MR. JONKER: I object to the form of the question. I don't think it necessarily went through the books of Truth Publishing. I don't know how the joint sales agreement works. But it went through that business office.
- (14) Q It would have gone through the accounting function, then, of Truth Publishing?
- (15) A Truth Publishing is contracted by Hicks Broadcasting to

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- (1) be the business agent for that account.
- (2) Q Is that contract in writing?
- (3) A Yes, it is.
- (4) Q Is that part of the joint sales agreement?
- (5) A No, I don't believe it is.
- (6) Q There is an independent document, independent of the joint sales agreement?
- (7) A Yes, there is.
- (8) Q Are there other contracts or agreements between Hicks Broadcasting of Indiana, LCC and any company of John Dille in addition to the joint sales agreement and this other agreement you mentioned with respect to accounting function?
- (9) A There is a possible rent document, studio space rent.
- (10) Q Any others that you're aware of?
- (11) A I don't recall.
- (12) Q Do you have copies of these documents?
- (13) A I believe I do.
- (14) Q Does Steve Kline remain the general manager at WRBR?
- (15) A Is he presently general manager, is that what you're asking?
- (16) Q Correct.
- (17) A Correct.
- (18) Q And he has been the general manager of WRBR since Hicks Broadcasting of Indiana acquired it on or around March of

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- (1) 1994?
- (2) A That's correct.
- (3) MR. LUBBEN: I have got to clean up a document here a minute. Let's take a short break.
- (4) (Recess taken.)
- (5) MR. LUBBEN: I would like to have that marked as Exhibit 26.
- (6) (Defendant's Deposition Exhibit 26 marked for identification.)
- (7) Q Before we get into Exhibit 26, let me ask you, Mr. Hicks, you earlier mentioned, last time we talked, a little bit about David Miholer. And he also uses, I guess, the air name Phil Britten; is that right?
- (8) A Right.
- (9) Q When was Mr. Miholer terminated by Crystal Radio Group?
- (10) A I don't recall the date. Shortly after the merger.
- (11) Q Why was he terminated?
- (12) A Mr. Sackley and myself discussed the matter. We didn't feel he was contributing to the task that needed to be done. There was also an incident, I think, that triggered that. And he was driving a company vehicle and was pulled over and, to my knowledge, was found to have no operator's license. And I'm not sure whether he was arrested or - I'm assuming he was arrested at that point. Our van was parked in a residential area. I

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- (1) think that triggered, probably, the firing.
- (2) Q Why was the van parked in a residential area? Why was that a concern?
- (3) A It was not a concern, but I said that I think they arrested him. So the van was inoperable at that time.
- (4) Q They left the van where it was when they arrested him; is that what you're saying?
- (5) A I guess that's what I meant, yes.
- (6) Q Did Mr. Miholer drive the van as his personal vehicle prior to the merger?
- (7) A No.
- (8) Q Did Mr. Miholer incur phone bills, car phone bills, about \$300 a month prior to the merger?
- (9) A Car phone bills, I'm not aware of that.
- (10) Q Did he submit car phone bills to Hicks Broadcasting for payment?
- (11) MR. JONKER: I object to the form of the question. He's already said he wasn't aware of the bills. I don't know how he could be aware of submission of bills he's not aware of.
- (12) Q Do you know whether David Miholer submitted car phone bills to Hicks Broadcasting for payment prior to the merger?
- (13) A That, I do not know.
- (14) Q Do you recall him taking the radio station van down to

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- (1) the Indianapolis 500?
- (2) A Yes, I do.
- (3) Q Did he have approval to do that?
- (4) A No, he did not.
- (5) Q Was that a personal trip?
- (6) A He was - to my knowledge, was accompanied by other personnel from the radio station.
- (7) Q Did this occur before or after the merger?
- (8) A Prior.
- (9) Q It had to, didn't it? The Indianapolis 500 is run on Memorial Day, I guess. Memorial Day, 1993?
- (10) A Possible, yeah.
- (11) Q And how did you learn that he had taken the van down to the Indianapolis 500?
- (12) A I don't know how I learned.
- (13) Q Did you confront him about the fact that he had done this?
- (14) A Yes, I did.
- (15) Q When?
- (16) A Shortly after I learned of the incident.
- (17) Q When did you learn of the incident?
- (18) A I don't have - I don't recall.
- (19) Q How did you learn of the incident?
- (20) A I don't recall.
- (21) Q In any event, when you confronted him, what did you do?

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- (1) A I think he might possibly have been suspended for a period of time at that time.
- (2) Q Were you aware of the fact that he was driving the van without a valid operator's license?
- (3) A No, I was not.
- (4) Q When did you first learn about that?
- (5) A When he supposedly was either arrested or pulled over on the incident that we prior discussed.
- (6) Q Do you know how he obtained bail money to be bailed out?
- (7) A No.
- (8) Q Do you know whether Norrin Cohen ever provided him with bail money?
- (9) A I learned later that Norrin lent him some money - evidently, if he was arrested and detained, he lent him money to get out of jail.
- (10) Q How did you learn that Norrin Cohen had lent him money to get him out of jail?
- (11) A I believe Mr. Sackley told me that. I can't recall.
- (12) Q When Mr. Miholer was terminated by Crystal Radio Group, did you agree with the decision to terminate?
- (13) A Yes.
- (14) Q Mr. Miholer applied for unemployment compensation benefits; is that true?
- (15) A I don't think he did.
- (16) Q Did you tell Ed Sackley at some point that you did not

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- (1) think that the company should oppose Mr. Miholer's
- (2) attempt to get unemployment compensation because the
- (3) company really didn't have a good reason for firing him?
- (4) A No, I was not aware he had applied for unemployment. I
- (5) don't think that was true.
- (6) Q Who did Mr. Miholer go to work for after he was
- (7) terminated by Crystal Radio Group, if you know?
- (8) A He went to work for WLTA in South Bend.
- (9) Q That was the John Dille radio station that operated out
- (10) of the same facility as WRBR?
- (11) A That is correct.
- (12) Q When did Mr. Miholer obtain employment with WLTA?
- (13) A I am not sure exactly when. I don't know much about when
- (14) he was hired.
- (15) Q What role, if any, did you play in assisting him in
- (16) obtaining employment at WLTA?
- (17) A None, other than to answer a couple of questions from Mr.
- (18) Kline.
- (19) Q Steve Kline?
- (20) A That's correct.
- (21) Q And he called you about Mr. Miholer?
- (22) A Mr. Miholer.
- (23) Q When did he call you?
- (24) A Prior to his hiring of Mr. Miholer.
- (25) Q Are you able to put any date on that at all?

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- (1) A I am not. It was a couple of months following his
- (2) termination with Crystal Radio.
- (3) Q What questions did Mr. Kline put to you?
- (4) A I think he wanted to know why he was -- just about his
- (5) past employment. He had been there quite some time. And
- (6) why he had been terminated.
- (7) Q Did you set up Mr. Miholer's appointment to interview for
- (8) his position?
- (9) A No, I did not.
- (10) Q Did Mr. Miholer interview with Mr. Kline or did he
- (11) interview with Mr. Dille, if you know?
- (12) A I don't know.
- (13) Q Do you know if he interviewed with John Dille at all?
- (14) A I have no knowledge of him interviewing with Mr. Dille.
- (15) Q Did you play any role in setting up any interviews for
- (16) Mr. Miholer?
- (17) A No role at all in the interviews, no.
- (18) Q In setting up the interviews?
- (19) A No.
- (20) Q In any event, you said Mr. Kline called and wanted to
- (21) know why Mr. Miholer was terminated; is that right?
- (22) A That's right.
- (23) Q What did you tell him?
- (24) A I told him the reason.
- (25) Q Which was?

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- (1) A That at that point he just was not fulfilling his duties,
- (2) and didn't feel that he probably was very comfortable
- (3) with the merged situation. And I told him about the --
- (4) if I recall, about the van incident.
- (5) Q Did you make a recommendation to Mr. Kline as to whether
- (6) or not Mr. Miholer should be hired?
- (7) A No.
- (8) Q Why did you allow Mr. Kline to consider hiring a person
- (9) for your company, Hicks Broadcasting of Indiana, LCC?
- (10) MR. JONKER: I object to the form of the
- (11) question. That's not who Dave said hired him. He was
- (12) hired by LTA.
- (13) MR. LUBBEN: That's fair enough.
- (14) Q Does David Miholer have any role in connection with
- (15) programming at WRBR?
- (16) A Absolutely none.
- (17) Q Does he have any role in any capacity with RBR?
- (18) A Absolutely none.
- (19) Q Has he ever performed any services for WRBR?
- (20) A Being in the same building, I can't say that he has never
- (21) performed any duties for WRBR. That is not his position.
- (22) He's not an employee of Hicks Broadcasting. He does not
- (23) report to management regarding Hicks Broadcasting.
- (24) Q Well, he reports to Mr. Kline, does he not?
- (25) A Yes, he does.

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- (1) Q But you're saying he only reports to Mr. Kline in
- (2) connection with Mr. Kline's role as general manager of
- (3) WLTA?
- (4) A That's correct.
- (5) Q Were you surprised that Mr. Kline hired Mr. Miholer for
- (6) WLTA?
- (7) A No.
- (8) Q No?
- (9) A No.
- (10) Q Why not?
- (11) A Because Mr. Miholer is a very talented person, and I
- (12) think Mr. Kline realized that. Very capable program
- (13) director.
- (14) Q Who is the program director for WRBR?
- (15) A Follow by the name of Joe Turner.
- (16) Q Is there any reporting relationship between Mr. Turner
- (17) and Mr. Miholer, to your knowledge?
- (18) A No.
- (19) Q Does Mr. Miholer function as a program director for WLTA?
- (20) A To my knowledge, he is the program director.
- (21) Q Directing your attention to Exhibit 26, which is in front
- (22) of you, this is a memo dated May 9th, 1994 from Ed
- (23) Sackley to you. Did you receive this memo on or around
- (24) May 9th of 1994?
- (25) A That's the date, yes.

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- (1) Q Do you recall Mr. Miholer visiting the offices of Crystal
- (2) Radio Group on that date?
- (3) A Yes.
- (4) Q How was it that Mr. Miholer came to visit Crystal Radio
- (5) Group on May 9th, 1994?
- (6) A If my memory is right, I think he was delivering a
- (7) package to me from a radio station in Grand Rapids.
- (8) Q What package was he delivering?
- (9) A A videotape.
- (10) Q What sort of a videotape?
- (11) A This was a promotion that an oldies radio station had
- (12) done in Grand Rapids. He was in -- evidently in Grand
- (13) Rapids, and Mr. Goodrich, Mr. Bob Goodrich, who is the
- (14) owner of that radio station, asked him if he would
- (15) deliver this videotape.
- (16) Q Which radio station in Grand Rapids was it?
- (17) A WODJ.
- (18) Q Was Mr. Goodrich asking Mr. Miholer to deliver this tape?
- (19) A I don't know, other than the fact that my station in
- (20) South Bend was an oldies and this was a promotion that he
- (21) had done in Grand Rapids.
- (22) Q Had Mr. Goodrich discussed this tape with you before Mr.
- (23) Miholer delivered it?
- (24) A I had no knowledge that it was coming, no.
- (25) Q How did you learn that Mr. Miholer was at the station

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- (1) looking for you?
- (2) A I'm not sure. He probably came in my office.
- (3) Q And did you talk with him?
- (4) A Certainly.
- (5) Q And how long did you spend with him?
- (6) A Ten, fifteen minutes, possibly.
- (7) Q Did you have a positive relationship with Mr. Miholer?
- (8) A It was -- it was not negative.
- (9) Q Had Crystal Radio Group terminating Mr. Miholer affected
- (10) that relationship in any way?
- (11) A I don't recall it was a real serious problem.
- (12) Q Why not?
- (13) A I don't know. It wasn't for me. Mr. Miholer, I can't
- (14) answer for him.
- (15) Q It wasn't a problem for you that Mr. Miholer had been
- (16) arrested driving the Crystal Radio Group van without an
- (17) operating license?
- (18) MR. JONKER: Objection. That's not what he
- (19) said. But he can answer that question.
- (20) A Again, I'm not totally sure he was arrested. But it did
- (21) bother me, yes, that he was driving without an operator's
- (22) license a company vehicle. But that isn't -- you know,
- (23) that isn't the end of the day.
- (24) Q In any event, what do you recall about that visit by Mr.
- (25) Miholer to your offices?

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- (1) A I think it was just, "How are you? How is everything?"
- (2) Here is a package." And basically it.
- (3) Q Short visit?
- (4) A It was relatively short.
- (5) Q Do you know approximately how long it lasted?
- (6) A Not more than 15 minutes.
- (7) Q Did Ed Sackley contact you while Mr. Miholer was in the office to talk about his presence?
- (8) A He - I think Mr. Miholer was visiting other people in the building. And Mr. Sackley confronted me in the hallway, if I recall.
- (9) Q What did Mr. Sackley say?
- (10) A Well, I think he was very upset that Mr. Miholer was in the building.
- (11) Q Did he say why he was upset?
- (12) A No, other than the fact that he was ranting and raving that Mr. Miholer was in the building.
- (13) Q When you say ranting and raving, was he raising his voice?
- (14) A I don't recall raising his voice, but he was upset about it.
- (15) Q What, if anything, did he ask you to do?
- (16) A He asked me to tell him to leave.
- (17) Q And what did you say?
- (18) A I think I told him that - I don't recall what the exact

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- (1) words were, but I was somewhat surprised that someone
- (2) would tell somebody they couldn't have somebody visit
- (3) them in the office.
- (4) Q And what did Mr. Sackley say?
- (5) A I don't think he said anything after that.
- (6) Q How did that discussion between you and he end?
- (7) A I think it ended right there, other than receiving a memo later.
- (8) Q And did you ask Mr. Miholer to leave?
- (9) A Mr. Miholer was not in my office at that time, so he was making his way out, again, if I recall. I don't know.
- (10) Q Did you ask him to leave?
- (11) A I didn't talk to him after that at all. He was talking to other people.
- (12) Q And sometime after that you received Exhibit 26 from Mr. Sackley; is that right?
- (13) A Yes.
- (14) Q Prior to receiving this memo on May 9th, 1994, had there been any tension between you and Mr. Sackley, from your perspective, in connection with your operation of Crystal Radio Group?
- (15) A Oh, I think from day one there was probably tension, yes.
- (16) Q How so?
- (17) A Just in basic policy, operational policy.
- (18) Q Did you and he differ in terms of basic operational

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- (1) policy?
- (2) A I'm not sure openly, but I think probably both felt going
- (3) different directions, yes.
- (4) Q What were the different directions, from your perspective?
- (5) A Early on the - for lack of a better word, the harassment of the Hicks employees.
- (6) Q Harassment of the Hicks employees?
- (7) A Correct.
- (8) Q By who?
- (9) A By Mr. Sackley.
- (10) Q What was the nature of this harassment?
- (11) A Well, the fact that we were going to change policy, that these policies in the past were not effective and we're going to do things differently.
- (12) Q What policies were being changed?
- (13) A Nothing specific other than the way, mainly, the salespeople were operating.
- (14) Q What employees of Hicks Broadcasting did you perceive Mr. Sackley was harassing?
- (15) A Well, the entire sales department.
- (16) Q And who were those people?
- (17) A There was about seven of them, probably, if I recall.
- (18) Q Was there one who was responsible for the others in a supervisory position?

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- (1) A Yes.
- (2) Q And who was that?
- (3) A A Robert Miller.
- (4) Q And Mr. Miller had been employed by Hicks Broadcasting prior to the merger?
- (5) A Correct.
- (6) Q And what was his position with Hicks Broadcasting prior to the merger?
- (7) A He was a sales manager for the combination stations.
- (8) Q And those would have been?
- (9) A WKFR and WKMI.
- (10) Q And who were the other employees, if any, that you can recall that you felt were being harassed by Mr. Sackley?
- (11) A Well, all of them ended up leaving the company, so I'm assuming that all of them felt that way.
- (12) Q Can you identify any by name other than Mr. Miller?
- (13) A I can identify Michael Klein.
- (14) Q Any others?
- (15) A Pam Meyer, a Wally Ahlers, and obviously a Robert Miller.
- (16) Q Any others that you can recall? You mentioned Robert Miller, Michael Kline, Pam Meyer and Wally Ahlers.
- (17) A Marilyn White was not in sales, but she was a business manager.
- (18) Q Was it your perception that Mr. Sackley was harassing Marilyn White?

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- (1) A Well, I think right from day one.
- (2) Q Any other employees of Hicks Broadcasting that you perceive that Mr. Sackley was harassing after the merger?
- (3) A Right off the bat, I don't recall all the names, but there are about 15 of them that ultimately left.
- (4) Q And when you say Mr. Sackley was harassing you, you said he was changing policies of Hicks Broadcasting?
- (5) A That's correct.
- (6) Q And he was suggesting that the old policies did not work?
- (7) A That's correct.
- (8) Q And you don't recall any specific policies that he changed; is that right?
- (9) A One was, we had some discussion about the way that the sales were allocated between the WKMI operation and WKFR operation.
- (10) Q And how was that policy changed?
- (11) A Well, those sales - I don't recall the whole incident - it's been some time ago - but I know it was certainly an irritant to the present sales staff that had been there for a long period of time, that had been used to selling a product that particular way.
- (12) Q Any other specific policy changes that you can recall other than the allocation of sales between WKMI and KFR?
- (13) A I don't recall any specifics.
- (14) Q We got into this, discussing when, if any, you perceived

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- (1) tension between you and Mr. Sackley, and you said from day one. And one of the areas was the changes in policy by Mr. Sackley. Were there other things that caused you to think that there was tension from day one between you and Mr. Sackley?
- (2) A Well, between the Sackley family and myself.
- (3) Q What caused you to think that there was tension between you and the Sackley family?
- (4) A The day of the closing there was a statement made by Mrs. Sackley that - something was said, I don't recall what it was, and I said, "It sounds to me" - and I said it in humor - "that this sounds more like a takeover than a merger." Mrs. Sackley bolted across the table and said, "We have - we had no other intentions than to be in charge." That began the tensions.
- (5) Q Is that the first time that you had heard that there were no other intentions but for the Sackleys to be in charge?
- (6) A You'll have to ask the question again.
- (7) Q Was that the first time that there had been any discussion as to who was going to be in charge of this merger?
- (8) A That was at the closing, that's correct.
- (9) Q And you had not discussed who was going to be in charge before that?
- (10) A We had had some conversation regarding it. I didn't take

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- (1) that to mean the daily operation of the radio station.
- (2) Q What did you take it to mean?
- (3) A I took that remark to be a total takeover.
- (4) Q What was your understanding as to who was going to be in charge of the operation of the station after the merger?
- (5) A Well, originally we were -- we talked about a joint operation agreement.
- (6) Q Did that change?
- (7) A Yes.
- (8) Q When?
- (9) A At the first board meeting.
- (10) Q And how did it change at the first board meeting?
- (11) A We had decided that we would have titles prior to that.
- (12) And we had agreed to the titles. The first board meeting, the titles became duties. And the chairman of the board, of which I was designated of, really had no meaningful part at all in the operation.
- (13) Q How did you react to that?
- (14) A I was very uncomfortable with that.
- (15) Q Did you express to the board at the first meeting that you did not like the proposed job duties?
- (16) A Yes, I did.
- (17) Q And what was the reaction of the board?
- (18) A I don't think there was any other than that's just the way it is.

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- (1) Q So you understood that the board was adopting the job duties?
- (2) A The Sackley family was, yes.
- (3) Q Who was on the board at that time?
- (4) A Senior Sackley, Mr. Sackley, Ed Sackley, Ed's wife, Mrs. Sackley. There was a roommate of Ed Sackley's, I believe, college roommate.
- (5) Q Is that John Strandin?
- (6) A Strandin. And Rick Brown and myself.
- (7) Q Was there a vote on these job duties?
- (8) A I don't recall.
- (9) Q Focusing on Exhibit 7, designation of titles, it says, "It was moved by Strandin and seconded by Sackley, Sr. that Sackley III be designated as the Chief Executive Officer and General Manager and that Hicks be designated as Chairman, Executive Vice President and Director of Sales. Motion approved." Was that vote unanimous?
- (10) A I don't recall.
- (11) Q Do you recall whether there was any dissent?
- (12) A I don't recall.
- (13) Q Did you vote in favor of that motion?
- (14) MR. JONKER: Well, are you looking at Exhibit 7?
- (15) MR. LUBBEN: Exhibit 7, correct.
- (16) MR. JONKER: It says Hicks and Sackley

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- (1) abstained.
- (2) THE WITNESS: Yep.
- (3) MR. JONKER: We're looking at the same exhibit under designation of titles, disability, sickness benefits, or looking somewhere else?
- (4) Q It does not say Hicks and Sackley abstained there, and that's why my question is: Did you vote in favor of the motion regarding the designation of title?
- (5) A It says motion approved. I don't know who voted for or against. I don't recall ever voting, a negative or a positive.
- (6) Q Were there other things that caused you to think there was tension between you and Mr. Sackley or the Sackley family other than the policy changes you referenced earlier and the comment of Mrs. Sackley at the day of closing and the decision at the first board meeting with respect to titles?
- (7) A Yeah. We had an agreement with the accounting firms that shortly after the merger that we would get together, all parties, because there were two different corporations and there were a lot of loose end items that needed to be merged together. That was never done. It was a request of mine on two or three occasions. And then I did find out that one meeting did take place without my presence, with my accounting firm, the BDO Seidman people.

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- (1) Q That was also the accounting firm of Crystal Radio Group?
- (2) A Of the merged. They put the merger together, yes.
- (3) Q How did you learn that there was a meeting?
- (4) A They were in the office, and I happened to walk by the conference room. And I took it upon myself to walk in and say hello.
- (5) Q Who was in the office?
- (6) A Mr. Sackley, Mr. Barry, Mr. Barry's assistant.
- (7) Q What was the assistant's name, if you know?
- (8) A I can't recall offhand.
- (9) Q Anyone else? Was Marilyn White present?
- (10) A I don't recall that she was.
- (11) Q Do you recall anyone else being present besides Mr. Sackley, Mr. Barry and Mr. Barry's assistant?
- (12) A I don't recall. I was there just a very short time.
- (13) Q When you walked in, did you ask what was being discussed?
- (14) A I asked Mr. Barry, and he said he was called out here by Mr. Sackley.
- (15) Q And did you ask what was being discussed?
- (16) A At that particular time, I think I left the room.
- (17) Q Why?
- (18) A I was not invited.
- (19) Q Why did you leave?
- (20) A Because I was not invited.
- (21) Q Were you asked to leave?

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- (1) A I was not asked to leave.
- (2) Q Did you see anything wrong with the President, Chief Executive Officer and General Manager of Crystal Radio Group meeting with the company's accountants?
- (3) A Without my presence, yes.
- (4) Q And why did you think that was a problem?
- (5) A Because we had had the agreement that we were going to sit down with the accounting firms of both companies and work this out.
- (6) Q If you felt it was a problem, why didn't you stay once you saw the meeting was going on?
- (7) A I was not invited to stay.
- (8) Q But if you felt you ought to be there and no one asked you to leave, why didn't you stay?
- (9) A Common courtesy tells me to leave if I'm not invited.
- (10) Q Did you have any idea what was being discussed?
- (11) A Not at that time.
- (12) Q Were you upset about the meeting when you saw it was occurring?
- (13) A I don't know upset is the word. I was concerned.
- (14) Q Anything else that caused you to think there was tension between you and Mr. Sackley or the Sackley family other than the items you've already described?
- (15) A Well, I think the constant -- the constant pounding on the WRBR transaction, when we were working as fast as we

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- (1) could to produce the documents that were requested, trying to keep within the time frame of the counsel, the various counsels involved, legal counsels.
- (2) Q When you say the constant pounding on the WRBR transaction, what do you mean?
- (3) A Well, that seemed to be the only issue that -- you know, that they wanted to pound on me for.
- (4) Q Who was it that you perceived to be pounding on you?
- (5) A Well, Mr. Sackley at various times, and, of course, at these meetings that we would have, was always -- we were certainly in compliance with everything within our possible means. And evidently it wasn't fast enough.
- (6) Q Did Mr. Sackley appear to be very concerned about this WRBR transaction?
- (7) A Well, I don't know -- did you say very concerned? It was -- certainly was an avenue of -- again, I'll use the word harassment.
- (8) Q In fact, you said there was constant pounding on it?
- (9) A Yeah.
- (10) Q Did you take the constant pounding to suggest --
- (11) A Craig, this whole thing was not in operation as two partners with good intentions of bringing two companies together to work together.
- (12) Q And why do you say that?

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(25) A From all of the things that I've just disclosed.

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- (1) Q To your knowledge, was Mr. Sackley involved in any
- (2) outside broadcast activities without telling you about
- (3) them?
- (4) A I don't know what Mr. Sackley was involved in.
- (5) Q Did you have reason to think there were any other board
- (6) members from Crystal Radio Group who were involved in the
- (7) acquisition of other radio stations without telling you
- (8) about it?
- (9) A No. But if that question was insinuating that I was
- (10) involved and was not telling anybody, then that's not a
- (11) proper question.
- (12) Q If you learned that Mr. Sackley or some of the other
- (13) board members of Crystal Radio Group were involved in
- (14) acquiring outside broadcasting interests without telling
- (15) you about it, would you have been concerned?
- (16) A No.
- (17) Q Now, you mention that there was this constant pounding on
- (18) the WRBR transaction, and I want to make sure that I
- (19) understand what you mean by that. It was mentioned in
- (20) the September '93 board meeting, correct?
- (21) A Correct.
- (22) Q And it was discussed prior to the January 28th board
- (23) meeting, as well as at the board meeting, correct?
- (24) A That's correct.
- (25) Q And it was discussed by Mr. Sackley with you early in

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- (1) January after the announcement came out in Cable and
- (2) Broadcast Magazine about the merger, correct?
- (3) A That's correct.
- (4) Q Were there other times when it was discussed?
- (5) A Well, just various comments about, you know, what is
- (6) going on, and that sort of thing. And then just the tone
- (7) of the whole thing was not as two partners should be able
- (8) to approach things.
- (9) Q Did you ever tell Mr. Sackley that you felt that this
- (10) wasn't being addressed as two partners?
- (11) A I don't recall that, no.
- (12) Q Anything else that caused you to think that there was
- (13) tension between you and either Mr. Sackley or the other
- (14) board members other than the items that you've already
- (15) articulated?
- (16) A I don't recall.
- (17) Q Coming back to Exhibit 26, the May 9th, 1994 memo, did
- (18) you discuss this memo with Mr. Sackley after he sent it
- (19) to you?
- (20) A No.
- (21) Q Did you read it?
- (22) A Yes.
- (23) Q What was your reaction to it?
- (24) A Oh, I thought that he was way off base with this.
- (25) Q And why did you think he was way off base?

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- (1) A Well, because I thought Mr. Miholer stopping by or
- (2) anybody stopping by was perfectly within the permitted
- (3) responsibilities of anybody on our staff to have visitors
- (4) come in.
- (5) Q Had Mr. Sackley asked you privately to send Mr. Miholer
- (6) away while he was at the station?
- (7) A I think we discussed that earlier.
- (8) Q Did you tell Mr. Sackley that you would see anyone you
- (9) wanted to there at Crystal Radio Group?
- (10) A I told Mr. Sackley that I felt that I could see anybody
- (11) that came in to see me, yes. That's just common
- (12) courtesy.
- (13) Q Mr. Sackley made the statement in the memo that David
- (14) Miholer's legacy was not one that you should perpetuate.
- (15) Did you agree with him?
- (16) A No.
- (17) Q You felt that Mr. Miholer's legacy was one that should be
- (18) perpetuated?
- (19) A Well, I don't know that Mr. Sackley has any authority to
- (20) tell anybody who they can visit or can't visit with.
- (21) That's a personal concern.
- (22) Q You testified earlier that you agreed with the decision
- (23) to terminate Mr. Miholer?
- (24) A That's correct.

(25) Q Did you see any possible negative impact on employees of

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- (1) having another terminated employee come in and talk to
- (2) them?
- (3) A No. I've always had the philosophy that people are
- (4) welcome at my place of business.
- (5) Q Even if you've terminated them?
- (6) A That's correct.
- (7) Q During the time up until May 9th, 1994, from the time of
- (8) the merger until May 1994, did you remain the principal
- (9) signatory on the checks of Crystal Radio Group?
- (10) A Prior to the merger, is that what you're saying?
- (11) Q From the time of the merger up until May 9th, 1994, did
- (12) you remain the principal signatory on the checks for
- (13) Crystal Radio Group?
- (14) A From the time period, is this -
- (15) Q From the merger up to May 9th, 1994, which is the time of
- (16) Exhibit 26.
- (17) A I don't know that I was the primary - both Mr. Sackley
- (18) and I were on the checks.
- (19) Q But were you the one who would normally sign the checks?
- (20) MR. JONKER: I object to the form of the
- (21) question, of what "normally" means.
- (22) MR. LUBBEN: Noted.
- (23) Q Presumably, Marilyn White would prepare the checks as
- (24) needed to prepare the bills, as such; is that correct?
- (25) A That's correct.

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- (1) Q And then she would need to have somebody sign those
- (2) checks?
- (3) A Or whoever the business manager was, that's correct.
- (4) Q Were you normally the one who would sign the checks?
- (5) A I don't think I was normally the one. After the merger
- (6) we rotated that, whoever was there to sign.
- (7) Q You don't recall that being your principal
- (8) responsibility?
- (9) A No. No.
- (10) Q You do recall that you used the title of Chairman after
- (11) the merger?
- (12) A In duties related to Crystal Radio, that's correct.
- (13) Q And were you the first person to handle the incoming
- (14) mail?
- (15) A On most occasions.
- (16) Q And you would open and decide who it was supposed to be
- (17) dispensed to?
- (18) A I didn't open the mail if it wasn't addressed to myself,
- (19) no.
- (20) Q Was there a carport at Crystal Radio Group?
- (21) A Yes.
- (22) Q And only one?
- (23) A There was one carport.
- (24) Q And did you continue to have exclusive use of the
- (25) carport?

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- (1) A There was one carport with three or four stalls, yes.
- (2) Three stalls, yes.
- (3) Q Did you have exclusive use of it?
- (4) A I had a parking place in the carport, yes.
- (5) Q Did anyone else?
- (6) A There were two other stalls.
- (7) Q Did Mr. Sackley have a spot in the carport?
- (8) A I - once in a while his car was in there, but I don't
- (9) know if it was in there on a regular basis.
- (10) Q Looking at the second page of Exhibit 26, the memo says,
- (11) "Your refusal to accept my authority in this otherwise
- (12) insignificant matter underlies what appears to be some
- (13) deeper concerns." Did you agree that there appeared to
- (14) be deeper concerns in terms of your relationship with Mr.
- (15) Sackley?
- (16) A No.
- (17) Q Did you think there was any difficulty in terms of span
- (18) of control and authority, defining the span and authority
- (19) between you and Mr. Sackley?
- (20) A No, I didn't think we were at - we needed to be drawing
- (21) lines in chain of authority, not in what the intent of
- (22) the merger was.
- (23) Q The memo goes on to say that Mr. Sackley would be
- (24) speaking with John Cook later that evening and planned to

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(25) schedule a meeting to discuss the parameters of your

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- (1) future relationship and span of control issues from a legal standpoint. What do you understand that to mean?
- (2) A That he would be speaking with John Cook later that evening.
- (3) Q Did you think it would be appropriate to discuss the future relationship and span of control issues?
- (4) A No.
- (5) Q Why not?
- (6) A As I said earlier, I didn't think that was necessary.
- (7) Q You felt things were going well?
- (8) A No, I didn't think things were going well at all, but that wasn't the intent of the merger.
- (9) Q You felt that, even though they weren't going well, you shouldn't talk about them?
- (10) A No, no. I didn't say we shouldn't have discussion about it. But somebody arbitrarily seeking legal advice to determine avenues of authority, I thought was probably a little off base for what the intent of the merger was.
- (11) Q It goes on to say, "The meeting will include some personal liability issues uncovered during my review of 1993 financial records in preparation for filing corporate tax returns. I had planned to raise these issues with you today, but the atmosphere is certainly not conducive to such a discussion at this time." Did you understand what was being referred to in terms of

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- (1) personal liability issues?
- (2) A No.
- (3) Q Were you concerned about that reference?
- (4) A No.
- (5) Q Did you do anything to check on it?
- (6) A No.
- (7) Q Did you ask Mr. Sackley what he meant?
- (8) A No.
- (9) Q Did you speak with the accountants to try to determine what was being referred to?
- (10) A No.
- (11) Q Did you do anything to follow up on that at all?
- (12) A No.
- (13) Q Did you care?
- (14) A I certainly cared, but I didn't feel there was any major issues that would be - because those major issues - or those issues, if they were loose end issues, should have been covered within our discussions with accountants.
- (15) Q So you felt that if there were personal liability issues uncovered during the review of the 1993 financial records, that would be discussed with accountants?
- (16) A Certainly.
- (17) Q And that you would be responsible for them?
- (18) A No. I didn't say that at all.
- (19) Q Can you describe the way things operated between you and

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- (1) Mr. Sackley from May 9th of 1994 up until July 1994?
- (2) A Yes. I figured Mr. Sackley was on a witch hunt.
- (3) Q What do you mean by a witch hunt?
- (4) A He was going to try to find anything and everything he could to disrupt the intent of the merger.
- (5) Q What made you think that?
- (6) A I think probably point one would be the May 9th memo.
- (7) Q Exhibit 26?
- (8) A Right.
- (9) Q And anything else that caused you to think he was attempting to -
- (10) A Failure to keep our agreed appointment with the accountants.
- (11) Q Did you ever ask him to schedule this meeting with the accountants?
- (12) A On a number of occasions.
- (13) Q What did he say?
- (14) A I don't recall there was ever a clear answer.
- (15) Q Did you ever attempt to set up the meeting?
- (16) A Yes, I did. I had talked to Ed Barry on numerous occasions regarding it. I believe the accounting firm for the prior entity, Airborne, was in Grand Rapids. And we were just waiting for that meeting to take place.
- (17) Q Well, you said you discussed this with Mr. Barry on a

(25) number of occasions. What did you discuss?

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- (1) A The fact that we got to sit down and do this, we got to have this meeting.
- (2) Q What did Mr. Barry say?
- (3) A "I agree."
- (4) Q So why didn't you do it?
- (5) A Because I was only half of that.
- (6) Q Well, what did you expect Mr. Sackley to do?
- (7) A To fulfill the agreement that we had originally, attempt to set up the meeting.
- (8) Q You wanted him to set up the meeting?
- (9) A Yes.
- (10) Q Why couldn't you set up the meeting?
- (11) A I didn't feel I probably had any authority to do anything at that point.
- (12) Q Did you ever ask for a meeting to talk about how this authority was being delegated?
- (13) A No.
- (14) (Discussion held off the record between Mr. Lubben and Mr. Sackley.)
- (15) Q Marilyn White had been the business manager of Hicks Broadcasting prior to the merger?
- (16) A Correct.
- (17) Q Shortly after the merger she quit?
- (18) A She resigned her position.
- (19) Q Do you know how long after the merger that occurred?

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- (1) A Less than a month.
- (2) Q Who hired the replacement?
- (3) A We both interviewed for the position. Mr. Sackley ultimately hired.
- (4) Q You say you both interviewed, you and Mr. Sackley together interviewed candidates?
- (5) A Correct.
- (6) Q How many candidates did you interview?
- (7) A I think two.
- (8) Q Who were the two, if you can recall?
- (9) A I can't recall.
- (10) Q How did you go about selecting the person that was selected?
- (11) A I don't - I don't recall. I was not involved in that.
- (12) Q Do you recall the person who was hired was Julie Harpootlian?
- (13) A Yes.
- (14) Q Do you recall Mr. Sackley favored the other candidate?
- (15) A No.
- (16) Q Do you recall you favored Miss Harpootlian?
- (17) A No.
- (18) Q Do you recall opposing the hiring of Miss Harpootlian?
- (19) A I did not oppose.
- (20) Q Did you and Mr. Sackley then agree on that issue?
- (21) A Well, out of the two candidates, I guess she was the

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- (1) better of the two.
- (2) Q Did Miss Harpootlian deal with you on a regular basis after the hiring?
- (3) A Very, very little.
- (4) Q Did she prepare checks to pay bills and bring them to you for signature?
- (5) A On occasion.
- (6) Q Did she prepare reports of the revenue that came in on a daily basis?
- (7) A Yes. I don't know whether she prepared them or someone else, but they were prepared.
- (8) Q Did she bring the revenue reports to you on a daily basis?
- (9) A I don't recall.
- (10) Q Was she involved in preparing year-end tax returns for the company during the -
- (11) A That was one of her duties, I believe, for everybody, yes.
- (12) Q Did she confer with you regularly in connection with the preparation of those tax returns?
- (13) A No.
- (14) Q Did she confer with you at all?
- (15) A Yes.
- (16) Q Did you perceive that you had a good relationship with

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(25) her?

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- (1) A I thought so in the early beginnings, but soon it was
- (2) detected that she was reporting only to Mr. Sackley.
- (3) Q When did she begin to believe she was reporting only to
- (4) Mr. Sackley?
- (5) A Possibly a couple months into the hiring of her.
- (6) Q What made you think that she was reporting only to Mr.
- (7) Sackley?
- (8) A Attitude, more or less.
- (9) Q What did she do that demonstrated to you an attitude that
- (10) suggested she was reporting only to Mr. Sackley?
- (11) A I don't recall any specifics, but those are things you
- (12) can tell.
- (13) Q Anything besides her attitude which caused you to think
- (14) that she was reporting only to Mr. Sackley?
- (15) A I don't recall.
- (16) Q Did you ever ask her if she was reporting only to Mr.
- (17) Sackley?
- (18) A No.
- (19) Q Did you ever ask Mr. Sackley if she was reporting only to
- (20) him?
- (21) A No.
- (22) Q Did you ever ask her to provide you with information
- (23) where she refused to provide you with what you requested?
- (24) A I don't recall any specific incidents. I think - if I
- (25) did, I think I got the feeling that it was checked out

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- (1) with Mr. Sackley first, before she provided the
- (2) information.
- (3) Q Do you remember that ever happening?
- (4) A No.
- (5) Q Anything else that caused you to feel that Mr. Sackley
- (6) was on a witch hunt after May 9th of 1994, other than
- (7) what you've already described?
- (8) A Yes. The communications pretty much shut down totally.
- (9) A lot of closed door sessions with other staff members.
- (10) We had a program director that was hired at our company,
- (11) mainly by myself, and Mr. Sackley more or less informed
- (12) him that he was not really to talk to me about any
- (13) programming issues.
- (14) Q Who was that?
- (15) A A fellow by the name of Rick Belcher.
- (16) Q Who told you that Mr. Sackley told Mr. Belcher not to
- (17) report to you?
- (18) A Who told me that Mr. Sackley - Mr. Belcher more or less
- (19) indicated that.
- (20) Q Well, what did he say when he more or less indicated
- (21) that?
- (22) A Well, in joking sessions, that he now, I guess, was
- (23) reporting directly to Mr. Sackley.
- (24) Q He said that in joking sessions?
- (25) A Well, in - there was a time there that he would come

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- (1) in freely, into the office, and we would talk about
- (2) various things, like you normally have good relationships
- (3) with employees.
- (4) Q Did that change?
- (5) A Those meetings became less and less. One occasion when
- (6) he was there, that remark was made. I think there was
- (7) some gestures to the other side of the room.
- (8) Q Directing your attention to Exhibit 9, the agenda from
- (9) September 28, 1993, and in particular Page 3,
- (10) "Designation of Chief Executive Officer and Assignment of
- (11) Operational Titles," it says, "Early in the merger
- (12) discussions Dave indicated his interest in focusing
- (13) primary attention on the sales side of the business,
- (14) drawing on his expertise as a career sales manager,
- (15) general manager and station owner. Ed was very
- (16) comfortable with that approach, given his interest in
- (17) concentrating on programming, promotion and
- (18) administrative areas." Was it consistent with your
- (19) understanding from the merger discussions that you were
- (20) going to focus on sales?
- (21) A Oh, right up front.
- (22) Q And was it also consistent with your understanding Mr.
- (23) Sackley would focus on programming, promotion and
- (24) administration?

(25) A Promotion and programming.

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- (1) Q Not administration?
- (2) A Not up front.
- (3) Q If, in fact, it was your understanding that Mr. Sackley
- (4) was going to be concentrating on programming, why did you
- (5) hire Mr. Belcher as programming director, as opposed to
- (6) Mr. Sackley doing it?
- (7) A We had talked about that. We had a candidate I wanted to
- (8) talk to. Because I had knew of Mr. Belcher's
- (9) availability, I arranged to bring him in for an
- (10) interview.
- (11) Q And even though Mr. Sackley was responsible for
- (12) programming, he deferred to your suggestion?
- (13) A Certainly.
- (14) Q How did you know Rick Belcher?
- (15) A Mr. Belcher had been in the business a considerable
- (16) length of time in Saginaw. And I knew Rick Belcher from
- (17) a - past relationships in the business. And I knew that
- (18) station over there had been sold and I knew it was an
- (19) availability.
- (20) Q Mr. Belcher had worked for the Booth American Company?
- (21) A That's correct.
- (22) Q In Saginaw, correct?
- (23) A Right.
- (24) Q Did Mr. Booth let you know that Mr. Belcher was
- (25) available?

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- (1) A No.
- (2) Q How did you become aware of Mr. Belcher's availability?
- (3) A I don't know whether Mr. Belcher called me or whether the
- (4) general manager of that radio station called me or - in
- (5) a session - or gathering of some sort. He might have
- (6) mentioned it. I'm not sure.
- (7) Q You're not sure how you became aware of it?
- (8) A No.
- (9) Q Anything else that caused you to think that Mr. Sackley
- (10) was on a witch hunt after May of '94 besides the memo,
- (11) the failure to keep appointments with accountants, and
- (12) the other matters you've already mentioned?
- (13) A That's pretty much - will stand in the record.
- (14) Q Pardon me?
- (15) A That pretty much indicates what my concerns were.
- (16) Q Do you recall there being a meeting of the board of
- (17) directors of Crystal Radio scheduled for July 15th of
- (18) 1994?
- (19) A Yes.
- (20) Q Had you discussed the agenda for that board meeting with
- (21) Mr. Sackley prior to the meeting?
- (22) A I tried to, yes.
- (23) Q When had you tried to do that?
- (24) A Probably a week prior to the board meeting.
- (25) Q How did you try to discuss it with him?

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- (1) A That we should get together and set up the agenda.
- (2) Q What did he say?
- (3) A I don't recall his exact words.
- (4) Q Do you recall generally what he said?
- (5) A The fact that we will, or whatever, yeah.
- (6) Q What happened on that July 15, 1994, if you can remember?
- (7) A As of the morning of July 15th we still had no agenda,
- (8) and I was asking about it.
- (9) Q Who did you ask?
- (10) A Mr. Sackley.
- (11) Q What did he say?
- (12) A I don't think he said anything. And I think he went into
- (13) his office and a short time later brought back an agenda.
- (14) Q What was on the agenda?
- (15) A The agenda for the meeting.
- (16) Q Anything on there that caused you concern?
- (17) A No.
- (18) Q What happened next?
- (19) A I think this meeting was scheduled for somewhere around
- (20) noon, shortly before noon. An attorney from your office
- (21) arrived and went into a closed door conference with Mr.
- (22) Sackley.
- (23) Q These were at the offices of Crystal Radio Group?
- (24) A Yes.

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(25) Q What happened after the attorney went into closed door

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- (1) office meeting with Mr. Sackley?
- (2) A There was a meeting there for probably about 45 minutes
- (3) or so. I don't know.
- (4) Q What happened next?
- (5) A Mr. Sackley and your associate came into my office as I
- (6) was preparing for the board meeting.
- (7) Q What did they say?
- (8) A Your associate informed me that they were terminating my
- (9) services at the company.
- (10) Q Did you ask why?
- (11) A Yes, I did.
- (12) Q Who responded?
- (13) A I don't recall.
- (14) Q Did Mr. Sackley speak at all during this meeting?
- (15) A Yes.
- (16) Q What was said?
- (17) A He was waving a document, which I think was the WRBR
- (18) sales agreement document, around and claiming that Mr.
- (19) Brown did not do me justice. There was - some box
- (20) wasn't checked, something to that - something regarding
- (21) that.
- (22) Q Did he explain what box?
- (23) A Yeah. He pointed to the box that related to any other
- (24) agreements that - or understandings that were not filed
- (25) with the original application.

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- (1) Q Had you supplied him with a copy of that application?
- (2) A He had a copy, yes.
- (3) Q How did he get his copy, if you know?
- (4) A That was the original application for the transfer of
- (5) license to Hicks Broadcasting.
- (6) Q Did it appear, in fact, that he had obtained a copy from
- (7) the Federal Communications Commission?
- (8) A I don't - I'm assuming I gave him that. I don't know
- (9) where he got that.
- (10) Q Isn't it true that you never gave him a copy of the
- (11) application?
- (12) A I don't know whether that's true or not. I did furnish
- (13) the application to all of the directors by mail.
- (14) Q You believe you furnished a copy of your application for
- (15) the WRBR license to all directors of Crystal Radio Group?
- (16) A I believe I did.
- (17) Q How do you think you did that?
- (18) A How do I think I did that?
- (19) Q Right.
- (20) A By sending it to them by mail.
- (21) Q When do you think you mailed it to them?
- (22) A Prior to that meeting, but I have no idea when.
- (23) Q You have a specific recollection of doing that?
- (24) A Yeah.
- (25) Q Did anyone assist you?

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- (1) A No.
- (2) Q Did you do this from the offices of Crystal Radio Group?
- (3) A Yes.
- (4) Q And did you run it through a postage meter there or
- (5) something?
- (6) A Well, I didn't specifically run it, but we put our mail
- (7) in the mail room and sent it out.
- (8) Q So was there a secretary or somebody who you believe put
- (9) it in an envelope?
- (10) A No. I did that.
- (11) Q And you believe you mailed a copy of the application for
- (12) the acquisition of WRBR to every director of Crystal
- (13) Radio Group?
- (14) A I did.
- (15) (Discussion held off the record between Mr.
- (16) Lubben and Mr. Sackley.)
- (17) Q Coming back to this meeting in your office with Mr.
- (18) Sackley and an attorney, what else was said? The
- (19) attorney told you they were terminating your services,
- (20) correct?
- (21) A Right.
- (22) Q Mr. Sackley waved around the WRBR sales document and
- (23) said
- (24) that Mr. Brown didn't do you justice and that certain

(24) boxes had not been checked?

(25) A Right.

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- (1) Q And specifically the boxes regarding -
- (2) A And you'll find out that Mr. Brown didn't do you justice.
- (3) Q Okay.
- (4) A Referring to O.J., something about - I didn't know how
- (5) that related, but there was something about the O.J.
- (6) situation. I don't recall the other things. It was not
- (7) a pleasant time.
- (8) Q What did you say?
- (9) A I was, I felt, probably a good listener.
- (10) Q You didn't say anything?
- (11) A Oh, I think that there was - the - I don't know whether
- (12) I should say threat or comment made that I should
- (13) probably not seek legal advice.
- (14) Q Who said don't seek legal advice?
- (15) A Mr. Sackley, I believe.
- (16) Q Did he say why you shouldn't seek legal advice?
- (17) A No. I don't recall.
- (18) Q Anything else that was said?
- (19) A Like I say, it was not a pleasant meeting. I'm not
- (20) really clear on everything that was said.
- (21) Q Did the attorney ask you to explain what had happened
- (22) with the WRBR transaction?
- (23) A No.
- (24) Q Did he ask you to explain whether or not you had, in
- (25) fact, an agreement with John Dille whereby you would hold

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- (1) the station for him to acquire at a later date?
- (2) A I don't recall that question at all.
- (3) Q Do you recall telling the attorney that you were holding
- (4) the station -
- (5) A No.
- (6) Q (Continuing) - for the benefit of John Dille?
- (7) A No.
- (8) Q You deny telling him that?
- (9) A Yes.
- (10) Q Is there anything else that you can recall happening at
- (11) this July 15th, 1994 meeting?
- (12) A Mr. Sackley stated that - or I think it was your
- (13) associate that stated that I was to leave the premises.
- (14) Mr. Sackley - I think he said, "You could, you know,
- (15) take what personal papers you have available here." Mr.
- (16) Sackley said that the door - that the office would be
- (17) locked and nothing would be touched within the office.
- (18) Q And did you take any papers with you?
- (19) A I didn't really have any specific things that I did take,
- (20) no.
- (21) Q What happened next?
- (22) A That I recall.
- (23) Q Did you leave?
- (24) A I left the office.
- (25) Q Did you attend the board meeting?

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- (1) A No.
- (2) Q Why not?
- (3) A Well, I certainly didn't feel I was welcome at the board
- (4) meeting. I had just been terminated.
- (5) Q Now, were you told that you were terminated or were you
- (6) told that you were being suspended?
- (7) A There was one other thing.
- (8) Q What else?
- (9) A Mr. Brown - I was informed that Mr. Brown had resigned
- (10) prior to the board meeting, probably two days before. So
- (11) attending the board meeting with the Sackley family was
- (12) going to result in just no benefit whatsoever.
- (13) Q Anything else that you can recall happening at that
- (14) meeting?
- (15) A I don't recall.
- (16) Q You told me everything you are able to recall at this
- (17) time?
- (18) A Everything I'm able to recall.
- (19) (Discussion held off the record.)
- (20) Q Do you recall whether you were terminated at that time,
- (21) or were you told that you were being suspended pending
- (22) investigation?
- (23) A I don't recall the words.

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- (24) Q Is it possible you were told you were being suspended?
 (25) A I don't - I can't comment on that at that particular

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- (1) meeting, no.
 (2) MR. LUBBEN: Let's take a short break here.
 (3) (Recess taken.)
 (4) Q Mr. Hicks, I'm showing you a document that's been marked
 (5) as Deposition Exhibit 27. Those are the minutes from the
 (6) Crystal Radio Group board of directors meeting beginning
 (7) July 15th, 1994. Did you receive a copy of these
 (8) minutes?
 (9) A There is a possibility.
 (10) Q Do you recall whether or not you received a copy of these
 (11) minutes?
 (12) A I don't recall this one at all.
 (13) Q All right.
 (14) MR. JONKER: For what it's worth, let me just
 (15) say I don't recall it, either, although I do recall
 (16) getting the resolution that comprises part of these
 (17) minutes.
 (18) Q Let me ask you, Mr. Hicks, does this exhibit refresh your
 (19) recollection as to whether you were placed on an
 (20) indefinite administrative leave of absence pending an
 (21) investigation of your relationship to Hicks Broadcasting
 (22) of Indiana?
 (23) MR. JONKER: Just to clarify, are you asking
 (24) whether he recalls what was said to him in the meeting
 (25) before this or what the actual case was after the

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- (1) meeting?
 (2) MR. LUBBEN: That's a fair point. Let me
 (3) rephrase.
 (4) Q Were you supplied a copy of the resolution that is under
 (5) the heading "Resolution Regarding Mr. Hicks"? Were you
 (6) supplied that prior to the board meeting?
 (7) A No.
 (8) Q Did you receive it at some time after the board meeting?
 (9) A I don't recall ever seeing this, no.
 (10) Q Does seeing this refresh your recollection as to what you
 (11) were told prior to the board meeting regarding your
 (12) employment status?
 (13) A Regarding the resolution, I don't think too many of these
 (14) things were discussed.
 (15) Q When the lawyer and Mr. Sackley met with you prior to the
 (16) board meeting on July 15th, 1994, did they distinguish
 (17) between your employment as an employee of Crystal Radio
 (18) Group and your role as a director of Crystal Radio Group?
 (19) A No.
 (20) Q Did you distinguish in your mind between your role as an
 (21) employee and your role as a director?
 (22) A No.
 (23) Q Do you recall being informed that your leave would be
 (24) without pay but that your health care coverage would be
 (25) continued?

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- (1) A Yes.
 (2) Q Do you recall being told that your car allowance would be
 (3) continued pending further action by the board?
 (4) A I don't recall a conversation about the car.
 (5) Q Do you recall being informed that you would be
 (6) responsible for all telephone charges made to the
 (7) company -
 (8) A No.
 (9) Q (Continuing) - made to the company for use of cellular
 (10) phone provided to you?
 (11) A I don't recall the cellular phone issue at all.
 (12) Q What was your next contact with anyone from Crystal Radio
 (13) Group after you left the office on July 15th?
 (14) A Rick Brown.
 (15) Q And how did that contact come about?
 (16) A I telephoned Rick Brown.
 (17) Q Why did you telephone Mr. Brown?
 (18) A Two reasons. Number one, to inform him of what happened,
 (19) and also to inquire about his resignation.
 (20) Q What did Mr. Brown tell you?
 (21) A He told me what happened. He was asked two days before
 (22) by Mr. Sackley to resign and to not say anything about it
 (23) to anybody.

- (24) Q What else did he say?
 (25) A He suggested that I - well, I think we had a conference

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- (1) call at that point with Warner, Norcross and Judd in
 (2) Grand Rapids.
 (3) Q Did he suggest to you that he could not act as your
 (4) attorney because he had a conflict of interest?
 (5) A Yes.
 (6) Q And did he indicate to you that you should seek counsel
 (7) with another firm?
 (8) A That's correct.
 (9) Q Did you have any further discussions with Mr. Brown after
 (10) that regarding anything?
 (11) A You mean from that date 'til today?
 (12) Q Correct.
 (13) A Certainly.
 (14) Q How many conversations have you had with Mr. Brown since
 (15) that day?
 (16) A I've had numerous conversations with Mr. Brown.
 (17) Q When?
 (18) A I have no idea of dates. It's been almost two years.
 (19) Q When was the last time you spoke with Mr. Brown?
 (20) A Prior to Christmas.
 (21) Q In December of 1995?
 (22) A Maybe - yeah, early.
 (23) Q Pardon me?
 (24) A Early December.
 (25) Q Have you discussed this case with Mr. Brown?

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- (1) A Not directly, no.
 (2) Q Has Mr. Brown served as your attorney at any time since
 (3) July of 1994?
 (4) A No.
 (5) Q What did you discuss with Mr. Brown in early December of
 (6) 1995?
 (7) A Social.
 (8) Q Did he call you or you call him?
 (9) A He called me.
 (10) Q Where did he call you?
 (11) A At my office in Grand Rapids.
 (12) Q How long did the conversation last?
 (13) A Possibly 20, 30 minutes.
 (14) Q What did you discuss?
 (15) A Just social things.
 (16) Q What social things?
 (17) A Well, he's buying a new house, come over and see his new
 (18) house, we could get together for dinner. He was going to
 (19) be in Grand Rapids and he would stop in. Just more or
 (20) less light social -
 (21) Q Did you talk about his deposition?
 (22) A No.
 (23) Q Did you talk about your deposition?
 (24) A No.
 (25) Q Did he ask anything about the status of the lawsuit?

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- (1) A No.
 (2) Q Did you discuss anything related to your affiliation with
 (3) Crystal Radio Group?
 (4) A No.
 (5) Q Anything regarding Hicks Broadcasting of Indiana, LCC?
 (6) A No.
 (7) Q Have you had any discussions with Mr. Brown related in
 (8) any way to Crystal Radio Group since July 15th of '94?
 (9) A Yes.
 (10) Q How often?
 (11) A Maybe four times.
 (12) Q When did those conversations occur?
 (13) A One was at my daughter's wedding.
 (14) Q When was that?
 (15) A That was in the latter part of July of '94.
 (16) Q So shortly after you were suspended?
 (17) A Correct.
 (18) Q What was discussed at that time?
 (19) A Oh, it was just, "How are things going," and, you know,
 (20) "Where does it stand?"
 (21) Q What was your next -
 (22) A I think the comment was my relationship with Warner
 (23) Norcross at that point.

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- (24) Q What was said about that?
 (25) A Oh, just, you know, "Are you feeling comfortable with

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- (1) Warner Norcross?"
 (2) Q What was the next conversation you recall having with Mr. Brown?
 (3) A Possibly New Year's call to wish a happy New Year and see how things were going.
 (4) Q And the next one?
 (5) A I don't recall.
 (6) Q Do you recall any others regarding --
 (7) A I don't recall any others specifically.
 (8) Q Did you tell Mr. Brown he had misrepresented you in regard to the forced sale provision?
 (9) A No, I had not.
 (10) Q Have you had any discussions about your case with anyone from BDO Seidman?
 (11) A Yes.
 (12) Q When?
 (13) A Almost the same sequences. Mr. Barry is my accountant, so he does -- we do have periodic meetings to discuss tax issues.
 (14) Q When was the last time you met with Mr. Barry?
 (15) A Probably October.
 (16) Q Of 1995?
 (17) A Yes.
 (18) Q How often have you met with Mr. Barry since you were suspended in July of '94?

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- (1) A Two or three times.
 (2) Q Have you met with anyone else from BDO Seidman?
 (3) A No.
 (4) MR. LUBBEN: I have a document I would like to have marked as Exhibit 28.
 (5) (Defendant's Deposition Exhibit 28 marked for identification.)
 (6) Q Showing you the document marked as Exhibit 28, those are the minutes from the board of directors meeting of December 16, 1994. Have you seen those minutes before?
 (7) A No, I have not.
 (8) Q This is the first time you have seen them?
 (9) A Yes, it is.
 (10) Q Were you informed that you were removed as Chairman, Executive Vice President and Treasurer effective December 16, 1994?
 (11) A I don't know the exact date. I received a letter from the business manager of Crystal Radio informing that Ed had told her that I had been removed as -- removed from the board, or terminated, I guess. I don't know what the exact wordage was. And health insurance benefits would cease and I was eligible for COBRA. I think that was the purpose of her letter, but that was my first -- my knowledge of that.
 (12) Q That was the first time you were informed that you were

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- (1) terminated?
 (2) A That's correct.
 (3) Q Were you informed that you were expected to turn over to the corporation all equipment, records and related items owned by the corporation?
 (4) A No.
 (5) Q What was your next contact with anyone from Crystal Radio Group after your conversation with Mr. Brown on or around July of '94?
 (6) A I have had none other than -- I have had none.
 (7) Q Did you have a meeting in August of 1994 at the offices of this law firm, in fact in this room, with your counsel and Mr. Sackley and a lawyer on behalf of the company?
 (8) A That's correct.
 (9) Q And at that meeting were you asked about what had happened or what were the terms of the WRBR acquisition?
 (10) A I don't recall.
 (11) Q Did you tell anyone at that meeting that you were holding WRBR as an accommodation for John Dille?
 (12) A No.
 (13) Q Did you discuss or describe the WRBR transaction in any way at that meeting?
 (14) A It probably was a part of the conversation, but I don't

- (24) recall the details
 (25) Q Showing you a document that was previously marked as

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- (1) Exhibit 5, which is a letter from an attorney by the name of Nat Emmons to Ed Sackley, when was the first time you saw that letter?
 (2) A I don't recall my first time to see this letter, but I did see the letter.
 (3) Q Did you discuss the letter in any way with Mr. Sackley?
 (4) A No.
 (5) Q Have you discussed that letter with any FCC counsel, any attorney specializing in FCC related matters?
 (6) MR. JONKER: Well, I object to the question -- just a minute -- because I think it may be impossible for him to answer that without disclosing, at least to some extent, the substance of the privileged communication, if he's had communication with at least his FCC counsel.
 (7) MR. LUBBEN: Well, I'm primarily looking for identity of counsel and whether there has been such a discussion. I don't think that fits within the privilege, those issues. I think if I asked about the substance of the conversation, what did he say about the letter, did he react to it, then I would agree with you.
 (8) But just in terms of did you meet with someone, who is it, when did it occur, I think those are outside the scope of privilege.
 (9) MR. JONKER: Hold on just a second.
 (10) MR. LUBBEN: Okay.

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- (1) (Discussion held off the record between Mr. Jonker and Mr. Hicks.)
 (2) MR. JONKER: It's a little troublesome, based on what he says. I can say this, and you can confirm this with him: There hasn't been any discussion on any subject of this case with any FCC counsel other than Campbell. And I'm not sure how much farther we can go into content of that discussion without possibly disclosing a privilege. It probably won't matter, anyway; if he testifies, it will be waived. I'm thinking out loud how I want to handle it. I'm willing to handle it, I suppose, the same way we handled some of the Rick Brown privilege issues, which is, you know, go ahead and do it today, if he remembers anything -- the content, anyway, and not waive the privilege based on that. May be waived on the basis of other things, and I guess we would have to be put to a decision later on.
 (3) MR. LUBBEN: I want a decision now because, if he asserts the privilege in connection with his communications with Campbell, I don't think Campbell could testify.
 (4) MR. JONKER: Say this again now.
 (5) MR. LUBBEN: I'm saying if he asserts the privilege regarding his communications with Campbell, I don't think that you can then present Campbell as a

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- (1) witness on that issue. It's like that medical privilege, you know, you can't select what you want to waive and that.
 (2) MR. JONKER: Right. I mean, I think it might be depending on what the nature of the discussions, if any, about Exhibit 5 were. It may still be possible to have a privilege and still testify regarding the scope of his opinion letter, which I think was dated March 31st. I'm not sure these overlap completely. So to that extent, I might not agree completely. Certainly, if he testifies with respect to something that's the subject of this letter, it's fair game. I understand that. And I just -- maybe it's still all academic. Can you give us a couple minutes?
 (3) MR. LUBBEN: Sure. That would be fine.
 (4) (Recess taken.)
 (5) MR. JONKER: Okay. Simple resolution is, go ahead and ask the questions, and Dave will answer to the extent he can recall.
 (6) Q Did you discuss Mr. Emmons' opinion as set forth in Exhibit -- which number is it?
 (7) A 5.
 (8) Q (Continuing) -- 5 with any attorney acquainted with or

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- (24) specializing in FCC matters?
 (25) A I believe Mr. Campbell.

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- (1) Q When did you discuss it with Mr. Campbell?
 (2) A I have no recollection, date.
 (3) Q Was it in person or by telephone?
 (4) A It was a conference call from the office of Warner Norcross.
 (5) Q Who participated in the conversation?
 (6) A Mr. Jonker, Mr. Waterbury, Mr. Hicks and Mr. Campbell.
 (7) Q Was this before or after the lawsuit was filed?
 (8) A Oh, I think it was -- I recall it was probably prior.
 (9) Q Was Mr. Campbell supplied with a copy of the letter, Exhibit 5?
 (10) A That, I don't know. Possible fax. I don't know.
 (11) Q What, if anything, do you recall Mr. Campbell saying about the letter?
 (12) A We didn't discuss the letter's entirety. We discussed mainly the South Bend portion of it.
 (13) Q What did you discuss about the South Bend portion?
 (14) A Well, his opinion of what this particular attorney had written.
 (15) Q What did he say?
 (16) A He thought he was totally off base.
 (17) Q Did he explain why?
 (18) A I don't recall a lot of specifics.
 (19) Q Do you recall any specifics?
 (20) A No.

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- (1) Q Just that the attorney, Mr. Emmons, was totally off base?
 (2) A Totally off base.
 (3) Q Did you discuss with Mr. Campbell the effect of the option that the Dille children have?
 (4) A No, I don't recall.
 (5) Q Did you discuss whether Mr. Campbell had ever had a conversation with Mr. Sackley?
 (6) A No.
 (7) Q Was Mr. Campbell provided with any other letters from Mr. Emmons other than Exhibit 5, to your knowledge?
 (8) A To my knowledge, I have no knowledge of additional.
 (9) Q After your employment was suspended in July of '94, what, if anything, did you do by way of seeking other employment?
 (10) A Nothing.
 (11) MR. JONKER: You mean at any time after, you're talking about?
 (12) MR. LUBBEN: Right.
 (13) MR. JONKER: Okay.
 (14) Q Obviously, at some point --
 (15) A Excuse me. I didn't -- ask the question again and then the time period.
 (16) Q My question was: After your employment was suspended in July of '94, what, if anything, did you do regarding seeking other employment?

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- (1) A I don't -- I don't recall ever -- I did not seek other employment.
 (2) Q At some point you obtained other employment, correct?
 (3) A Yes.
 (4) Q And that's the employment you have now?
 (5) A That's correct.
 (6) Q And that's in Grand Rapids?
 (7) A That's correct. Well, it's with -- yes, right now it's in Grand Rapids, right. I'm employed with Federated Media.
 (8) Q When did you first become employed with Federated Media?
 (9) A I think it was November.
 (10) Q Of 1994?
 (11) A Right.
 (12) Q Did you have any other employment from July of '94 to November of '94?
 (13) A No.
 (14) Q Did you have any income that you relied upon to support yourself in that time period?
 (15) A No.
 (16) Q How did you support yourself in that time period?
 (17) A I have savings.
 (18) Q Did you live off your savings then?

- (24) A Yes.
 (25) Q Did you work at WRBR at all --

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- (1) A No.
 (2) Q (Continuing) -- after July of '94?
 (3) MR. JONKER: You mean for income?
 (4) A On premise?
 (5) Q Did you do anything on site for WRBR, either for income or simply without being compensated?
 (6) A I think that has to be explained. Part of my duties at Federated Media were -- we have a large group, and I was directly involved in national sales, which included WRBR station.
 (7) Q When was the first time you visited the WRBR facility after July of '94?
 (8) A Oh, I was there probably within five, six days.
 (9) Q From March of '94, when the transaction for the acquisition of WRBR, closed until July of '94, how many times did you visit the WRBR facility?
 (10) A Probably two or three times.
 (11) Q What activities were you involved in after July 15th of 1994 up to the time you went to work for Federated Media?
 (12) Were you doing anything?
 (13) A No.
 (14) Q Staying home?
 (15) A I was on vacation.
 (16) Q Did you go anywhere for vacation?
 (17) A We went to visit friends, yes. I had a wedding in the

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- (1) family and that occupied a great deal of time.
 (2) Q That was the end of July?
 (3) A Yes.
 (4) Q You mentioned that you had the telephone conversation with Rick Brown at or near the same day, July 15th of '94. And you mentioned that you had a meeting with your counsel and Ed Sackley and counsel for Crystal Radio Group in August of '94. Did you have any other contact with anyone from Crystal Radio Group from July of '94 until December of '94?
 (5) A I'm going to have to ask you to repeat that question. I don't understand the August meeting of '94.
 (6) Q Maybe I misunderstood. You recall that you had a meeting at this office?
 (7) A Oh, excuse me. At this office?
 (8) Q Yes.
 (9) A I see.
 (10) Q Is it your recollection that that meeting occurred on or around August of '94?
 (11) A It's a possibility.
 (12) Q Did you have any other contacts with anyone from Crystal Radio Group other than your contact with Mr. Brown and that meeting?
 (13) A Any officers?
 (14) Q Correct.

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- (1) A No.
 (2) Q Any shareholders?
 (3) A No.
 (4) Q At some point you received notice that the shareholders were proposing to amend the shareholder agreement to change the effective date of the forced sale provision, correct?
 (5) A Correct.
 (6) Q Did you discuss that proposed amendment with any shareholder?
 (7) A No.
 (8) Q Why not?
 (9) A I discussed that with my counsel, Mr. Jonker.
 (10) Q I understand that. Did you discuss it with any shareholder?
 (11) A No. My first contact was Mr. Jonker. Mr. Jonker would then take over from there.
 (12) Q Why did you not personally contact any other shareholders of the Crystal Radio Group to discuss the proposed amendments of the forced sale provision?
 (13) A At that point, my direction was strictly going to be with Mr. Jonker.
 (14) Q Is it fair to say, then, you have never discussed any of

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- (24) the proposed amendments of the forced sale provision with
(25) any of the shareholders?

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- (1) A That would be a correct statement.
- (2) MR. LUBBEN: Let's go off the record a minute.
- (3) (Discussion held off the record.)
- (4) MR. LUBBEN: Let's have this marked as 29.
- (5) (Defendant's Deposition Exhibits 29 and 30 marked for identification.)
- (6) Q Mr. Hicks, showing you the document that's been marked as
- (7) Exhibit 29, those are the bylaws of Hicks Broadcasting
- (8) Corporation prior to the merger, correct?
- (9) A That's what it appears.
- (10) Q And looking at the last page of Exhibit 29, actually it's
- (11) the bylaws and the first amendment to the bylaws,
- (12) correct?
- (13) A That's what it appears.
- (14) Q And looking at the last page of Exhibit 29, there is a
- (15) signature, David L. Hicks. Is that your signature?
- (16) A Yes.
- (17) Q And looking at Page 13 of the original bylaws, do you
- (18) recognize that to be the signature of Rick Brown?
- (19) A That appears that that possibly is his signature.
- (20) Q Directing your attention to Page -
- (21) MR. JONKER: If I can ask a quick clarifying
- (22) question. My copy seems to have "superseded" written on
- (23) the front page.
- (24) MR. LUBBEN: Right.

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- (1) MR. JONKER: And I don't know if anybody knows
- (2) why that handwriting is there.
- (3) MR. LUBBEN: Yes. These are the bylaws that
- (4) were in place prior to the merger. They were superseded
- (5) by Exhibit 30, which are the bylaws that go into place at
- (6) the time of the merger.
- (7) MR. JONKER: Okay.
- (8) Q And I'm focusing now on these bylaws that were in place
- (9) at the time prior to the merger, when you were the sole
- (10) owner of Hicks Broadcasting. Do you understand that, Mr.
- (11) Hicks?
- (12) A Yes.
- (13) Q Focusing on Page 6 of the original bylaws, there is a
- (14) Section 3.05, entitled "Removal and Vacancies," correct?
- (15) A Page 6?
- (16) Q Yes.
- (17) A Three point what?
- (18) Q Section 3.05.
- (19) A "Removal and Vacancies," yes.
- (20) Q And under the bylaws of Hicks Broadcasting, under that
- (21) Section 3.05, it states that any officer elected or
- (22) appointed by the board of directors may be removed by the
- (23) board at any time by the affirmative vote of a majority
- (24) of the board of directors, with or without cause,
- (25) correct?

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- (1) A That's what it states, yes.
- (2) Q And those were the bylaws of Hicks Broadcasting, correct?
- (3) A Correct.
- (4) Q And then, going back a page to Page 5 of the bylaws,
- (5) there is a Section 2.10, entitled "Removal of Directors,"
- (6) correct?
- (7) A Correct.
- (8) Q And under the bylaws of Hicks Broadcasting it provided
- (9) that any or all of the directors may be removed from
- (10) office at any time, with or without cause, upon an
- (11) affirmative vote of the holders of a majority of the
- (12) outstanding shares of stock of the corporation entitled
- (13) to vote at an election of directors, correct?
- (14) A That's what it states.
- (15) Q And that was the policy of Hicks Broadcasting prior to
- (16) the merger?
- (17) A Correct.
- (18) Q Directing your attention to Exhibit 30, these were the
- (19) amended and restated bylaws that went into effect at the
- (20) time of the merger, correct?
- (21) A I don't have Exhibit 30.
- (22) Q Exhibit 30 says that they are the amended and restated
- (23) bylaws of Crystal Radio Group, correct?

(24) A Correct

(25) Q And if you look at the last page, which is numbered -

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- (1) It's numbered 17, correct?
- (2) A Correct.
- (3) Q And there the secretary has certified that the amended
- (4) and restated bylaws were adopted by the corporation on
- (5) the 31st day of August, 1993, correct?
- (6) A That's what it states.
- (7) Q And that was the day of the merger, correct, the day the
- (8) merger was closed?
- (9) A Correct.
- (10) Q Directing your attention to Page 5, there is a Section
- (11) 2.09, correct, entitled "Resignation and Removal of
- (12) Directors"?
- (13) A That's what it states, right.
- (14) Q And under the bylaws it provided that any or all
- (15) directors may be removed from office at any time, with or
- (16) without cause, upon the vote for removal of a majority of
- (17) the shares entitled to vote at an election of directors,
- (18) correct?
- (19) A That's what it states.
- (20) Q And then, moving forward to Page 8, at the top of the
- (21) page there is a Section 3.03 that deals with removal or
- (22) resignation of officers, correct?
- (23) A Correct.
- (24) Q And that says, "An officer elected or appointed by the
- (25) board may be removed by the board with or without cause."

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- (1) correct?
- (2) A Correct.
- (3) Q I would like to direct your attention to the document
- (4) previously marked as Exhibit 6, which is the agreement of
- (5) merger and plan of reorganization.
- (6) MR. LUBBEN: Counsel, I'm wondering if you
- (7) might show him your copy.
- (8) MR. JONKER: I'm sorry, which number are you
- (9) talking about?
- (10) MR. LUBBEN: This is Exhibit 6.
- (11) MR. JONKER: Okay.
- (12) Q And I would like to direct your attention, first of all,
- (13) to Page 5. There is an Article 4 there, entitled
- (14) "Representation and Warranties"; is that correct.
- (15) MR. JONKER: He's not there yet.
- (16) Q Sorry. There is an Article 4, entitled "Representation
- (17) and Warranties," correct?
- (18) A Correct.
- (19) Q And it indicates that, "Airborne is representing and
- (20) warranting to Hicks and Hicks is representing and
- (21) warranting to Airborne as follows," correct?
- (22) A Yes.
- (23) Q And you understood that you were making certain
- (24) representations on behalf of Hicks Broadcasting to the
- (25) Airborne Group, did you not?

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- (1) A Correct.
- (2) Q I would like to direct your attention to Page 16, Item
- (3) 4.23, environmental matters, and specifically Subsection
- (4) E: "To the best of its knowledge after due inquiry, no
- (5) tangible personal property and no real property, owned or
- (6) leased, contains any contaminant or any underground tanks
- (7) or any other such underground facilities." Did you
- (8) understand you were making a warranty and representation
- (9) on behalf of Hicks Broadcasting that the real property
- (10) did not contain any contaminant?
- (11) A Correct.
- (12) MR. JONKER: Well, as you read it.
- (13) Q As set forth in the agreement?
- (14) A Right.
- (15) Q On Page 17, the next page, it indicates that it defines
- (16) the term contaminant, correct?
- (17) A Where?
- (18) Q Around the middle of the page.
- (19) A Yes.
- (20) Q And it indicates, "Contaminant shall mean those
- (21) substances which are regulated by or form the basis of
- (22) liabilities under any environmental laws, including,
- (23) without limitation, asbestos," and then it describes

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- (24) others beyond that, correct?
 (25) A Correct.

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- (1) Q What inquiry did you make prior to signing Exhibit 6 as
 (2) to whether or not the real property owned by Hicks
 (3) Broadcasting contained any asbestos?
 (4) A The inquiry I made was to our chief engineer, who
 (5) functions as the building manager. He's the man that
 (6) knows the building inside and out.
 (7) Q Would that be Dale Schiesser?
 (8) A That would be.
 (9) Q And when did you inquire of Mr. Schiesser as to whether
 (10) there was asbestos present in any of the buildings owned
 (11) or leased by Hicks Broadcasting?
 (12) A The discussion about contaminants was addressed long
 (13) before merger.
 (14) Q When?
 (15) A I can't give you a date. But when we moved to the
 (16) Jennings Drive location, maybe a couple of years later or
 (17) so, when some remodeling was being done.
 (18) Q And what happened?
 (19) A Mainly, I think, ceiling - new ceiling tiles.
 (20) Q What happened at that time? How was the issue of
 (21) asbestos -
 (22) A It was just a matter of discussion.
 (23) Q What was discussed?
 (24) A That do we feel there is any contaminants in the
 (25) building. Period.

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- (1) Q And what did Mr. Schiesser say?
 (2) A He would investigate it. He hadn't run into anything
 (3) along that line at that point.
 (4) Q Did he discuss it further with you after that?
 (5) A I don't recall any specific conversation regarding that.
 (6) Q Isn't it true that Mr. Schiesser told you that there was
 (7) asbestos in the building on Jennings Drive?
 (8) A No.
 (9) Q You deny that?
 (10) A I deny that.
 (11) Q Is Mr. Schiesser trained in the identification of
 (12) asbestos or other contaminants?
 (13) A I wouldn't assume that he would be, no, but I think he
 (14) would have knowledge certainly better than I.
 (15) Q Did you seek to have any people trained in identification
 (16) of contaminants examine the building before you made the
 (17) representation that after due inquiry no tangible
 (18) personal property or real property, owned or leased,
 (19) contained any contaminant?
 (20) A No. There was - there was a conversation, probably
 (21) about this same time, with our bank financing. There was
 (22) a discussion at that time with Mr. Schiesser. We agreed
 (23) that there was no contaminants in the building, upon our
 (24) knowledge.
 (25) Q So you and Mr. Schiesser agreed together that there were

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- (1) no contaminants, to your knowledge?
 (2) A That's correct.
 (3) Q And since you didn't know any, you didn't retain any
 (4) experts trained in the area to check it out for you?
 (5) A That was not required.
 (6) MR. LUBBEN: I have a document I would like to
 (7) have marked as Exhibit 31.
 (8) (Defendant's Deposition Exhibit 31 marked for
 (9) identification.)
 (10) Q Directing your attention to Exhibit 31, that's a customer
 (11) questionnaire for Michigan National Bank that you filled
 (12) out, correct? Filled that out on or about August 17th of
 (13) 1993 and then signed it; is that right?
 (14) A I don't see a date on - oh, yes, I do, too. No, I don't
 (15) see a date on mine. Direct me to it.
 (16) Q Second to the last page of the exhibit.
 (17) A August 17th of '93.
 (18) Q And that's your signature?
 (19) A That's correct.
 (20) Q And in there, before you signed it you understood that
 (21) you were making a certification to the bank?
 (22) A Yes.
 (23) Q And you were certifying that the answers you were

- (24) providing were complete, true and accurate and were
 (25) either based upon your personal knowledge or were made

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- (1) after diligent and appropriate inquiries?
 (2) A That's correct.
 (3) Q And directing your attention to Section 5. Section 5
 (4) addresses the issue of asbestos, correct?
 (5) A Yes.
 (6) Q And you were asked the question, "Is there any asbestos
 (7) containing materials at the site," correct?
 (8) A That's correct.
 (9) Q And you had three choices; you could say yes, no, or you
 (10) didn't know, correct?
 (11) A Right.
 (12) Q And you indicated that there was no asbestos containing
 (13) materials at the site; is that correct?
 (14) A That's correct.
 (15) Q What was the diligent and appropriate inquiry that you
 (16) made before making that certification with the bank?
 (17) A With Mr. Schiesser.
 (18) Q And when had you discussed that with Mr. Schiesser?
 (19) A At the time of the filling out of this questionnaire.
 (20) Q You have been informed in this lawsuit, I take it, that
 (21) Crystal Radio Group contends that there is asbestos on
 (22) the Jennings Drive site?
 (23) A I understood that from documents received and also Mr.
 (24) Schiesser, yes.
 (25) Q When did you discuss that with Mr. Schiesser?

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- (1) A Mr. Schiesser called me sometime in April, I believe it
 (2) was April, and said that Mr. Sackley was strong-arming
 (3) him to admit that there was asbestos in the building.
 (4) And we had discussed our conversation on both of the
 (5) occasions that I mentioned. And he agreed.
 (6) Q He agreed what?
 (7) A He agreed with the way our conversation was mentioned.
 (8) Q So Mr. Schiesser indicated to you that he agreed that he
 (9) had not specifically told you that there was asbestos -
 (10) A That's correct.
 (11) Q (Continuing) - in the building?
 (12) A I don't know if that specific comment was made, but we
 (13) had discussed our conversations that I indicated earlier
 (14) here.
 (15) Q Do you have any reason to think that there is not
 (16) asbestos in the building of Jennings Drive?
 (17) MR. JONKER: You mean other than what he's
 (18) already said?
 (19) MR. LUBBEN: Right.
 (20) A I wasn't aware of any asbestos in the building.
 (21) Q You understand that Crystal Radio Group contends that
 (22) there is asbestos? In fact, I think we produced certain
 (23) documents to you that describe -
 (24) A That's what those documents state. I had no knowledge
 (25) prior to that that there was asbestos in the building.

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- (1) And I don't know that I know now that there are, other
 (2) than someone's documents.
 (3) Q And you, again, have never had anybody examine the
 (4) facility to check it out one way or the other?
 (5) A No. I had no -
 (6) (Discussion held off the record between Mr.
 (7) Lubben and Mr. Sackley.)
 (8) Q I would like to direct your attention to Page 11 of
 (9) Exhibit 6. Exhibit 6, again, is the agreement of
 (10) merger. Paragraph 4.14. Did you understand that you
 (11) were representing and warranting to Airborne that all of
 (12) Hicks' buildings, structures, facilities, equipment and
 (13) other material items of tangible property and assets were
 (14) in good operating condition and repair, subject to normal
 (15) wear and maintenance, were usable in the regular and
 (16) ordinary course of business and conformed to all
 (17) applicable laws, ordinances, codes, rules and regulations
 (18) and authorizations relating to their construction, use
 (19) and operation?
 (20) A To the best of my knowledge, yes.
 (21) Q Had you, in fact, discussed with Dale Schiesser the fact
 (22) that Hicks Broadcasting had been somewhat lax in its
 (23) maintenance of its facilities prior to the merger?

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- (24) A No.
 (25) Q Did you discuss the fact that Hicks Broadcasting did not

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- (1) have adequate funds to maintain facilities and properties
 (2) the way they ought to be maintained?
 (3) A That was never stated, no.
 (4) Q Had Mr. Schiesser asked you every year for additional
 (5) funds for repair and maintenance and had you told him the
 (6) company simply couldn't afford it?
 (7) A No, outside of budgets. When we would do budgets and we
 (8) would review budgets, it would be depending upon the
 (9) nature of the budget items and where they fell. That
 (10) happened to all departments.
 (11) Q Was it your understanding that the towers of Hicks
 (12) Broadcasting were supposed to be inspected on an annual
 (13) basis for insurance purposes?
 (14) A If it was requested by the insurance company, yes.
 (15) Q Isn't it a fact that you did not have them inspected at
 (16) any time from the formation of Hicks Broadcasting in 1985
 (17) until the merger in 1993?
 (18) A Well, if that was a requirement of the insurance company,
 (19) it had to be inspected.
 (20) Q Is it your contention that you did have them inspected?
 (21) A I don't recall specific dates of inspection. Tower
 (22) inspection mainly consists of Federal Aviation
 (23) requirements for lighting. And insurance company would
 (24) want to have them inspected, I'm assuming, if they
 (25) weren't inspected. We obviously couldn't obtain

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- (1) insurance if that was a requirement. And, to my
 (2) knowledge, we had insurance.
 (3) Q Do you know whether you had the towers inspected on an
 (4) annual basis?
 (5) A The tower - if it was not required by the insurance
 (6) company, they were not inspected on an annual basis,
 (7) other than lighting.
 (8) Q Do you recall Ed Sackley coming to you and asking for the
 (9) annual inspection reports for the tower?
 (10) A I don't recall that specifically, no.
 (11) Q Do you recall -
 (12) A That would be something that he probably would - would
 (13) check in the public file and/or engineering, not
 (14) necessarily with me.
 (15) Q You don't recall him beginning by asking you whether they
 (16) had been inspected?
 (17) A I don't recall.
 (18) Q You don't recall him telling you that it was necessary to
 (19) have those reports for insurance purposes?
 (20) A Again, if the insurance company didn't request it, I
 (21) don't know that Ed Sackley saying that they need to be
 (22) done has any more authority over the insurance company.
 (23) But I don't recall that conversation.
 (24) Q You don't remember him mentioning it?
 (25) A No.

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- (1) MR. LUBBEN: Let's have this marked as Exhibit
 (2) 32.
 (3) (Defendant's Deposition Exhibit 32 marked for
 (4) identification.)
 (5) Q Mr. Hicks, showing you the document that I've had marked
 (6) as Exhibit 32, that's a disclosure schedule that was
 (7) included with the 1992 tax returns for Hicks Broadcasting
 (8) Corporation, correct?
 (9) A A depreciation schedule.
 (10) Q Yes.
 (11) MR. JONKER: You're asking if he recognizes it?
 (12) Q Do you recognize it?
 (13) A I don't recognize it, no.
 (14) Q Let me ask you this: Did you understand as part of the
 (15) agreement of merger and plan of reorganization, Exhibit
 (16) 6, that in Paragraph 4.10 you were making representations
 (17) about tax returns?
 (18) A Yes.
 (19) Q Exhibit 32 makes reference at Line 17 to a music library,
 (20) correct?
 (21) A That's correct.
 (22) Q And it indicated that the cost of the library was
 (23) \$39,650, correct?

- (24) MR. JONKER Do you need to see it?
 (25) A That's right.

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- (1) Q And that the accumulated depreciation was the same
 (2) amount, \$39,650, correct?
 (3) A Right.
 (4) Q At the time of the merger, where was that music library?
 (5) A Well, the music - music library is also connected with
 (6) what they call the program library. It consists of a lot
 (7) of items. The music and program library were spread out
 (8) throughout the entire organization, the entire building,
 (9) not in any one specific area.
 (10) Q So where was it? I mean, all different offices?
 (11) A That's correct.
 (12) Q Warehouse?
 (13) A All different offices, basement, all over the building.
 (14) Q Prior to the merger, was there a specific room where the
 (15) music and program library items were kept?
 (16) A As I stated, they were spread out throughout the whole
 (17) building.
 (18) Q Do you recall a specific room where the majority of the
 (19) items were kept?
 (20) A I recall a room where some of the items were kept.
 (21) Q And was that room remodeled as part of the merger?
 (22) A Later in the merger, right.
 (23) Q When?
 (24) A Oh, a short time thereafter.
 (25) Q Before or after August 31st of 1993?

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- (1) A After.
 (2) Q And when the room was remodeled, what happened to the
 (3) music and program library items that had been kept in
 (4) that room?
 (5) A I am not sure.
 (6) Q Isn't it true that you disposed of those items?
 (7) A Some of them were thrown out. Many of those were picked
 (8) over in the years. It was a worthless category of junk.
 (9) Q Let me ask, what form did these items take? I mean, were
 (10) they 45 discs, were they 33 rpm?
 (11) A Some were 45. Majority of them were albums.
 (12) Q How many albums would you estimate?
 (13) A Thousands.
 (14) Q What type of music?
 (15) A Oh, back from big bands to '50's, '60's.
 (16) Q When had these albums been acquired by Hicks
 (17) Broadcasting?
 (18) A With the WKMI purchase.
 (19) Q So about 1970 -
 (20) A They were just part - they were just there. They were
 (21) junk that were there.
 (22) Q Did you have that music library appraised in any way?
 (23) A No.
 (24) Q How do you know it was junk?
 (25) A Well, number one, it was never used. They were scratchy

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- (1) records. Some of them were broken. And many of the
 (2) 45's, they were just empty record sleeves. They were
 (3) never used. Modern day radio does not use 45 records.
 (4) Q Did you discuss with anyone from the Airborne Group your
 (5) intention to dispose of these items?
 (6) A No. They weren't property of the Airborne Group. There
 (7) wasn't anything to do with the Airborne Group.
 (8) Q They were part of the assets of Hicks Broadcasting?
 (9) A There were none there. There was some program material,
 (10) but not records.
 (11) Q I thought you told me a minute ago that there were
 (12) thousands of albums in that room.
 (13) A But - yeah. That's correct.
 (14) Q I assume those albums had been acquired by Hicks
 (15) Broadcasting at the time of the WKMI purchase, correct?
 (16) A They were there when Hicks Broadcasting bought KMI from
 (17) Steer Broadcasting.
 (18) Q So they became an asset of Hicks Broadcasting?
 (19) A That's correct.
 (20) Q And then they were in this room, this room that was
 (21) remodeled just prior to the merger, correct?
 (22) A I'm not sure that they were in that room. That room was
 (23) used for a lot of different things. It was a mail room,

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- (24) it was the copy room. It was pretty well cleaned out
(25) before the merger.

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- (1) Q And it was also a storage room for thousands of albums
(2) and rpm's -
(3) A Most of those were probably in the basement. Some of
(4) them were there. As I said, they were spread throughout
(5) the building.
(6) Q And then prior -
(7) A There was even some in the garage area and transmitter
(8) room.
(9) Q And then prior to the merger you disposed of these albums
(10) and rpm records, 45 rpm records?
(11) A No.
(12) Q You did not.
(13) A Many of them were just dumped over the period of time.
(14) Q Did your son, Jeff Hicks, take the shelves apart in
(15) anticipation of the remodeling of this room?
(16) A I don't recall whether it was Jeff Hicks or if it was
(17) Manpower people or who. I don't recall who did that.
(18) Q And in the process of taking the shelves apart, did Jeff
(19) Hicks, your son, take these records and albums with him?
(20) A No.
(21) Q None?
(22) A No.
(23) Q So anybody who said they saw him taking records and
(24) albums out of the music library would be mistaken?
(25) A They would certainly be - to my knowledge, Jeff Hicks

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- (1) doesn't have any albums or records.
(2) Q Well, you said these items were thrown out. Was there
(3) one big day of dumping prior to the merger?
(4) A Oh, I personally - and, again, I think it was a Manpower
(5) person or something - filled up one dumpster full of just
(6) junk broken records.
(7) Q Did you do it or a Manpower person?
(8) A I didn't carry them out, but a Manpower person did.
(9) Q Do you have any idea, to this day, what the value was of
(10) those records -
(11) A No. They are not - worthless.
(12) Q That's your opinion?
(13) A Think so, yes.
(14) Q But you didn't have them appraised by anyone
(15) knowledgeable about the value of old records?
(16) A No. Over the years there were record collectors that
(17) would come in, and as they made tours of radio stations
(18) they would stop in and go in and leave. It was - they
(19) were worthless items.
(20) Q Did you keep any sort of inventory of the items so that
(21) we could determine what was thrown out?
(22) A They were so old and, like I said, most of the records
(23) were picked over. If there was anything good in there,
(24) they were probably picked over by Steer Broadcasting.
(25) Q But you don't know because you didn't conduct an

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- (1) inventory of what was in there, correct?
(2) A No.
(3) Q Directing your attention to Page 10 of Exhibit 6,
(4) Paragraph 4.12, to put this in perspective, this
(5) agreement was entered into as of April 7th, 1993,
(6) correct?
(7) A Right.
(8) Q And you were representing in Paragraph 4.12, and
(9) specifically Subsection B, that since the year-end
(10) balance sheet date, except as set forth in 4.12 of the
(11) disclosure schedule, Hicks Broadcasting had not sold,
(12) encumbered, assigned or transferred any assets or
(13) property except for the sale of inventory in the ordinary
(14) course of business consistent with past practice,
(15) correct?
(16) A Correct.
(17) Q And in Schedule 4.12 you had not disclosed that you had
(18) discarded the items contained in that room, did you?
(19) A It didn't even occur.
(20) Q Pardon me?
(21) A Didn't occur to me.
(22) Q Did not occur to you to disclose it?
(23) A Right.

- (24) Q Who was responsible at Hicks Broadcasting for preparing
(25) and reporting information for purposes of the personal

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- (1) property tax returns?
(2) A The preparation was done by department heads. In many
(3) instances, I prepared the document.
(4) Q You actually prepared the return, correct?
(5) A In many instances, yes.
(6) Q What information did you rely on in preparing your
(7) personal property tax returns?
(8) A The department heads, to tell me what was purchased and
(9) what was disposed.
(10) Q Who were the department heads that you were relying upon?
(11) A The department heads would be Dale Schiesser of
(12) engineering, Marilyn White, who was the business manager,
(13) Dale - Dale also was in charge of the transmitter
(14) buildings.
(15) Q Anybody besides Dale Schiesser and Marilyn White that you
(16) would rely upon as the department head to provide you
(17) with information so you could complete the personal
(18) property tax returns?
(19) A Those were the two.
(20) Q And they would tell you what had been purchased and what
(21) had been sold?
(22) A What had been disposed of or sold, right.
(23) Q Did you ask for any accounting records to support, if the
(24) company maintained any accounting records of what had
(25) been purchased and what had been sold?

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- (1) A Invoices, certainly. The invoices were on file, correct.
(2) Q So that, in connection with the personal property tax
(3) returns, there should have been files showing the list of
(4) what had been purchased and the invoices backing it up?
(5) A That's how we would know what the costs were.
(6) Q Do you know where those documents went?
(7) A I'm assuming they're with the company records.
(8) Q You believe they're still there?
(9) A Well, I have no reason to believe they aren't there.
(10) Q Who maintained this file of the personal property tax
(11) returns and the list of equipment purchased and disposed
(12) of and the backup invoices showing what had been paid?
(13) A It was in the central file of inventory.
(14) Q Is this a file that was maintained by you or by somebody
(15) else?
(16) A Well, let's back up. It was in the - it was in the file
(17) of the inventory of the company. The invoices were -
(18) would be in the payables file.
(19) Q Who kept these files?
(20) A They were in both locations, in Marilyn White's office,
(21) the business manager, and myself.
(22) Q So Marilyn White kept those files?
(23) A Right. She had access to those files, that's correct.
(24) Q And then you would check those files as you prepared the
(25) personal property tax return?

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- (1) A Yeah, each year.
(2) Q Anyone assist you in that?
(3) A I don't know. Other than Marilyn White's assistance, I
(4) guess was what I stated earlier.
(5) Q What?
(6) A The department heads.
(7) Q Giving you the information?
(8) A Yes.
(9) Q Why did you prepare the personal property tax returns for
(10) Hicks Broadcasting, as opposed to having either the
(11) business manager or the accounting firm do it?
(12) A I thought it was a very simple procedure. I had always
(13) done it from day one. It was just a matter of routinely
(14) adding and subtracting.
(15) Q Did you ever ask BDO Seidman to prepare the personal
(16) property tax returns?
(17) A I don't recall ever asking them. I know they were in the
(18) audits of - assuming periodic audits.
(19) Q Did BDO Seidman ever decline to prepare the personal
(20) property tax returns because they felt you did not have
(21) adequate documentation of the personal property?
(22) A No, sir.
(23) Q Was there a year where you neglected to file -

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- (24) A BDO Seidman never declined to do anything
 (25) Q Was there a year where you neglected to file a personal

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- (1) property tax return because you didn't have depreciation
 (2) schedules prepared?
 (3) A Not to my knowledge.
 (4) Q Normally, would BDO Seidman generate the depreciation
 (5) schedules that you would utilize in preparing the
 (6) personal property tax return?
 (7) A I can't answer that. That would go from Seidman through
 (8) the business office.
 (9) Q So Marilyn White would have to answer that?
 (10) A I would say so, yes.
 (11) Q Do you recall whether there was a year where BDO Seidman
 (12) declined to prepare the depreciation schedules because
 (13) they didn't have adequate information to do so?
 (14) A I think you just asked me that question. I said I - my
 (15) knowledge, BDO Seidman has never declined to do anything
 (16) they were asked to do.
 (17) Q The totals for the personal property as listed in the
 (18) returns that you filed did not correspond with or agree
 (19) with the financial statements of Hicks Broadcasting. Do
 (20) you know why?
 (21) A I don't have any knowledge of that at all.
 (22) Q Were you aware at any time while you were associated with
 (23) either Hicks Broadcasting or Crystal Radio Group that
 (24) there was a discrepancy between what was being shown in
 (25) the records of the company and what was being reported on

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- (1) the personal property tax returns?
 (2) A I was not aware.
 (3) Q Mr. Hicks, I'm showing you a document I've had marked as
 (4) Exhibit 33. The second page purports to be an
 (5) application for a loan of certain cash value on life
 (6) insurance policy. On the first page purports to be the
 (7) check itself. Focusing, first of all, on the second
 (8) page -
 (9) A Uh-huh.
 (10) Q (Continuing) - Is that an application for a loan of the
 (11) proceeds of the cash value of the life insurance policy
 (12) that you prepared?
 (13) A I don't recall preparing this at all. I can't read it.
 (14) It's pretty well - it's blocked. But -
 (15) Q Is that your signature?
 (16) A That is my signature, right.
 (17) Q Is it witnessed by Marilyn White, the business manager?
 (18) A That looks like her signature, right.
 (19) Q And was that document signed on September 20, 1993?
 (20) A It shows it December - or September 20, '93.
 (21) Q And that was after the merger?
 (22) A Yes, uh-huh.
 (23) Q And in that document you were representing that you were
 (24) the President of Hicks Broadcasting, correct?
 (25) A I think this policy was a Hicks Broadcasting policy,

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- (1) correct.
 (2) Q And the check is made payable to Hicks Broadcasting
 (3) Corporation?
 (4) A That's correct.
 (5) Q And you endorsed and cashed that check?
 (6) A That's correct.
 (7) Q You didn't put it through the books and records of
 (8) Crystal Radio Group, the successor of Hicks Broadcasting,
 (9) did you?
 (10) A No, I did not.
 (11) Q You deposited it in your personal bank account?
 (12) A Yes, I did.
 (13) Q Why did you borrow cash value of a life insurance policy
 (14) of Hicks Broadcasting Corporation and take that money and
 (15) put it in your personal account?
 (16) A Because it was agreed that I could do that.
 (17) Q Who agreed to it?
 (18) A We agreed to that at the closing of the merger.
 (19) Q This was at the offices of Miller Canfield?
 (20) A That's correct.
 (21) Q Who was present?
 (22) A All of the Michigan National Bank people were there.
 (23) Q Can you give me some names?

- (24) A Right off the bat, I cannot.
 (25) Q Would Stephanie Lubben be one of them?

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- (1) A She was not there, to my knowledge, that day.
 (2) Q Can you remember any of the people from Michigan National
 (3) who -
 (4) A I would have to go back for names. I can't remember
 (5) their names.
 (6) Q Can you remember anyone else who was present when this
 (7) supposedly took place?
 (8) A Mr. Cook, Mr. Brown, Mrs. Sackley, and Ed Sackley.
 (9) Q Anyone else?
 (10) A I don't recall anyone else.
 (11) Q What do you recall being said that you interpreted as
 (12) allowing you to borrow the cash value of proceeds in this
 (13) life insurance policy and put it in your personal
 (14) account?
 (15) A Well, that - each of us were to - were required to have
 (16) insurance on our lives of one million dollars. This was
 (17) an existing policy that I had had for a period of time.
 (18) And -
 (19) Q That you had had or that Hicks Broadcasting had had?
 (20) A Well, Hicks Broadcasting is me. And -
 (21) Q You don't distinguish between yourself and the corporate
 (22) entity?
 (23) A Well, in the - in this case, no.
 (24) Q They're one and the same?
 (25) A In this case, yes.

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- (1) Q So you intermingled your funds?
 (2) A I didn't say that.
 (3) Q Okay.
 (4) A In this particular discussion -
 (5) Q Right.
 (6) A (Continuing) - It was agreed in open discussion that we
 (7) required a million dollars. I discussed that there
 (8) was - that my policy exceeded a million dollars. At
 (9) that point, I had not total knowledge of how much. And
 (10) in the discussion it was agreed that that could be
 (11) brought down to a million dollars.
 (12) Q The coverage could be reduced to one million dollars?
 (13) A That's all that was required.
 (14) Q All right.
 (15) A Even in conversation with Mrs. Sackley, which she stated,
 (16) "We don't care what you do with that insurance policy as
 (17) long as it fulfills the million dollars requirement. If
 (18) the - if we are required to have that any more, that is
 (19) your personal policy. You can do with it what you want
 (20) to do."
 (21) Q Did you discuss at the time whether or not there was a
 (22) cash value to that policy?
 (23) A Oh, I assumed there was a cash value.
 (24) Q I know you assumed. Did you discuss it?
 (25) A Yes, in fact, it was, that we only required a million

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- (1) dollars. Mr. Brown was also aware of this.
 (2) Q Now, you say you had two life insurance policies - or,
 (3) excuse me, how many policies did you have?
 (4) A There was another policy that was in my name that was a
 (5) long-term policy at the radio station.
 (6) Q And that was in your name personally?
 (7) A Yes.
 (8) Q And what was the amount of that?
 (9) A \$300,000.
 (10) Q And what was the other policy?
 (11) A This million dollar policy.
 (12) Q The million dollar policy was in the name of Hicks
 (13) Broadcasting?
 (14) A That's correct.
 (15) Q And you also had a personal policy of \$300,000?
 (16) A That's correct.
 (17) Q Who paid the premiums for the \$300,000 policy?
 (18) A That was paid through Hicks Broadcasting.
 (19) Q Who paid the premiums on the million dollar policy?
 (20) A Hicks Broadcasting.
 (21) Q Who was named as the owner of the \$300,000 policy?
 (22) A David Hicks.
 (23) Q Who was named as the owner of the million dollar policy?

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- (24) A David Hicks, assigned to Bay Bank.
 (25) Q If David Hicks was the owner of the policy, why was the

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- (1) check made payable to Hicks Broadcasting Corporation, if
 (2) you know?
 (3) A Well, I don't know.
 (4) Q Isn't it a fact that David Hicks was listed as insured,
 (5) but Hicks Broadcasting was listed as the owner of the
 (6) policy?
 (7) A You probably are right.
 (8) Q And even on the \$300,000 policy, isn't it a fact that
 (9) Hicks Broadcasting was identified as the owner of the
 (10) policy and David Hicks was the insured?
 (11) A I cannot answer that.
 (12) Q And when Jan Sackley told you that you could keep the
 (13) policy, isn't it true that she was referring to the
 (14) \$300,000 policy?
 (15) A No. We were talking about the one million dollar policy,
 (16) because that was the topic of conversation.
 (17) Q Because the bank was requiring you to keep the one
 (18) million dollar policy, correct?
 (19) A That is correct.
 (20) Q And Jan Sackley told you that, with respect to the
 (21) coverage in excess of one million dollars, you could keep
 (22) that policy, correct?
 (23) A No. We were talking about the one million dollar
 (24) policy. The other policy was not even discussed.
 (25) Q Well, you said earlier that there was coverage in excess

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- (1) of one million dollars and you were going to reduce it to
 (2) one million because that was all that was required,
 (3) correct?
 (4) A That's correct.
 (5) Q Well, this particular policy only provided for one
 (6) million dollars in coverage; isn't that true?
 (7) A No, it had cash - it had exceeded, its cash value, to
 (8) 10,000, evidently an additional \$10,000.
 (9) Q Do you know the coverage under this particular policy?
 (10) A A million dollars.
 (11) Q And the other policy was \$300,000?
 (12) A That's correct.
 (13) Q And you interpreted what Jan Sackley said to mean that
 (14) you could take the cash value out of the million dollar
 (15) policy?
 (16) A As long as it did not go below the million dollars on a
 (17) pay-off, right.
 (18) Q Well, what did you think was going to happen with the
 (19) \$300,000 policy?
 (20) A That wasn't discussed.
 (21) Q What happened with that?
 (22) A That belonged to me.
 (23) Q What happened to that?
 (24) A I have that policy.
 (25) Q You retained it?

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- (1) A That's correct.
 (2) Q Now, why did you keep a \$300,000 policy in which Hicks
 (3) Broadcasting Company is identified the owner if it wasn't
 (4) ever discussed that you could keep it?
 (5) A Because it belonged to me.
 (6) Q Isn't it a fact that the policy identifies Hicks
 (7) Broadcasting Corporation as the owner and not you?
 (8) A Craig, I don't know what it was. I thought it was a
 (9) personal policy, but I don't know.
 (10) Q If, in fact, it identifies Hicks Broadcasting Corporation
 (11) as the owner, would you expect then that you would have
 (12) to give that \$300,000 policy back to the company?
 (13) A No, I don't expect to give anything back to the company.
 (14) Q And why not?
 (15) A Because they aren't entitled to anything.
 (16) Q But didn't you just tell me that there was no agreement,
 (17) there was no discussion of this \$300,000 policy?
 (18) A That's correct.
 (19) Q And as a result, there was no agreement that you could
 (20) keep it?
 (21) A We were only talking about it, the one million dollar
 (22) policy.
 (23) Q And as a result there was no agreement that you could

- (24) keep the \$300,000 policy?
 (25) A That was not even discussed.

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- (1) Q And you didn't discuss it because you understood that you
 (2) were the owner of that \$300,000 policy?
 (3) A I didn't discuss it because it didn't occur to me to even
 (4) bring it up for discussion at that time.
 (5) Q If it turns out that the owner of that policy is, in
 (6) fact, Hicks Broadcasting Corporation, you never had any
 (7) agreement with anyone that you were allowed to keep it?
 (8) A I can't comment on that because I don't know what it
 (9) says.
 (10) Q Isn't it true that prior to the closing Ed Sackley
 (11) specifically told you that the million dollar policy was
 (12) an asset of Hicks Broadcasting, that he had paid the
 (13) premiums and, therefore, the company was going to retain
 (14) that policy?
 (15) A No, that was never stated.
 (16) Q And didn't he tell you you could have the \$300,000 policy
 (17) but not the million dollar policy?
 (18) A Mr. Sackley never discussed the \$300,000 policy.
 (19) Q If, in fact, there was an agreement that you could keep
 (20) the cash value of the million dollar policy, why didn't
 (21) you have Mr. Sackley, the President of Hicks Broadcasting
 (22) as of September 20, 1993, sign on behalf of the owner?
 (23) A I didn't feel that was necessary. That was a transaction
 (24) between me and the insurance company.
 (25) Q The policy remained the policy of Crystal Radio Group,

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- (1) correct?
 (2) A My understanding was the bank required a million
 (3) dollars. Anything over a million dollars was not
 (4) necessary.
 (5) Q But the policy never had coverage over a million dollars,
 (6) did it?
 (7) A The policy -
 (8) MR. JONKER: Objection, asked and answered. He
 (9) said his understanding was it had excess cash value over
 (10) 10,000. It may or may not be true, but that's what he
 (11) said his understanding was.
 (12) Q Do you understand what the difference between coverage
 (13) and cash value is?
 (14) A I understood that if something would happen to me in this
 (15) particular case it would pay a million - \$1,010,000.
 (16) Q What caused you to think that?
 (17) A Because it had excess - it acquired excess over a
 (18) million dollars.
 (19) Q It acquired cash value?
 (20) A That's right.
 (21) Q Did any agent ever tell you that if you died the cash
 (22) value was paid in addition to the coverage amount?
 (23) A I don't recall. I don't recall.
 (24) Q Who was your agent that you used to acquire this
 (25) particular million dollar policy?

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- (1) A The agent was Terry Stewart, through Terry Stewart, but
 (2) it was farmed out to a Grand Rapids company.
 (3) Q Do you know the name of the Grand Rapids company?
 (4) A I don't know.
 (5) Q Fair to say that -
 (6) A I don't think - pardon me.
 (7) Q Fair to say that you're not aware of any agent ever
 (8) telling you that the policy would pay the coverage amount
 (9) plus cash value?
 (10) A I can't answer that.
 (11) Q Is it also fair to say that you never told anyone from
 (12) Crystal Radio Group that you had received this check and
 (13) had deposited the funds in your personal bank account?
 (14) MR. JONKER: You mean other than Marilyn White,
 (15) who witnessed the signature?
 (16) Q Other than Marilyn White, who witnessed the signature?
 (17) A That's correct.
 (18) Q Did you ever tell Marilyn White not to tell Ed Sackley
 (19) about this?
 (20) A No.
 (21) MR. JONKER: Time for a short break.
 (22) MR. LUBBEN: Sure.
 (23) (Recess taken.)

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- (24) Q Mr. Hicks, I would like to talk to you a little bit about the Sign-Pro business. Do you know what I mean by

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- (1) Sign-Pro?
 (2) A Yes.
 (3) Q How did you first become acquainted with the Sign-Pro opportunity?
 (4) A It was - I'm not even sure of dates. But Ed Sackley said he had a friend in Illinois, possibly, that had a - that was involved in a promotional sign business.
 (5) Evidently the person from Sign-Pro out of Missoula, Montana was making a tour through the western - or the midwest states, offering this idea of connecting radio stations with sign businesses. I think this was not a discussion. I think it was a memo from Mr. Sackley, that this gentleman would be in our offices at such and such a date. That's how I learned.
 (6) Q Did you speak with the gentleman at all prior to him coming to your office?
 (7) A No.
 (8) Q Did he, in fact, come to the office?
 (9) A Yes.
 (10) Q And what was the name of the gentleman? Was it Rod Harsell?
 (11) A Rod Harsell.
 (12) Q Did Mr. Harsell have anybody with him?
 (13) A No.
 (14) Q And when Mr. Harsell came to the offices of the Crystal

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- (1) Radio Group, do you know what month that was?
 (2) A I really don't know. It might have been in April - excuse me, June.
 (3) Q Of 1994?
 (4) A Somewhere in that area.
 (5) Q When Mr. Harsell came to the offices of Crystal Radio Group, did you meet with him?
 (6) A I met with him, yes.
 (7) Q Did anybody else meet with him?
 (8) A Yes.
 (9) Q Who else met with him?
 (10) A There was a Robert Miller.
 (11) Q That was the sales manager?
 (12) A And a Steve Stoimenoff. Mr. Sackley was scheduled to meet with us.
 (13) Q What is the role of Steve Stoimenoff?
 (14) A Steve Stoimenoff was designated local sales manager for WKRR.
 (15) Q What was the role of Mr. Robert Miller?
 (16) A He was designated local sales manager for WKFR and WKMI - or WKFR, I guess, at that point.
 (17) Q So it was you, Mr. Miller, Mr. Stoimenoff and Mr. Harsell; is that correct?
 (18) A That's correct.
 (19) Q Now, you said Mr. Sackley was supposed to meet with Mr.

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- (1) Harsell, as well?
 (2) A That was the indication, right, that we would all sit down with Mr. Harsell and listen to his program.
 (3) Q Why didn't that happen, if you know?
 (4) A Why didn't that happen?
 (5) Q Why didn't Mr. Sackley meet, as well, if you know?
 (6) A Well, I have no idea. Later in the meeting I went to find Mr. Sackley to bring him in.
 (7) Q And you did find him?
 (8) A Yes.
 (9) Q What was the opportunity that Mr. Harsell described?
 (10) A Well, he - was just a presentation. Like vendors come along and have ways that radio stations request work with - in this particular case, a sign business, and how it had reciprocal promotional opportunities.
 (11) Q When you say a sign business, was this like big boards, is it going to be like banners?
 (12) A It was presented as banners and small little signs. That was the pitch.
 (13) Q How long did Mr. Harsell make his presentation?
 (14) A Oh, I think he was there for a couple hours.
 (15) Q How long did the meeting go before you got Mr. Sackley?
 (16) A The last part of the meeting, was probably the final 40

- (24) minutes or so

- (25) Q So maybe an hour without Mr. Sackley and a little less

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- (1) than an hour with?
 (2) A Yes.
 (3) Q What was your reaction to Mr. Harsell's presentation?
 (4) A I thought it was an interesting concept. I was not aware of it in the past. And there is a lot of stuff in things, as they say, that go with radio. That was another one of those. It was one that I had not seen prior.
 (5) Q What, if anything, did you conclude after meeting with Mr. Harsell?
 (6) A I'm not sure I had a conclusion.
 (7) Q What was supposed to happen next, if anything?
 (8) A Well, I - when Mr. Sackley arrived at the meeting, I think after a while he listened - it was indicated by Mr. Harsell that he had an appointment across town at another radio station, and he was trying to hurry us along. His program was that, I think, if we issued a check to him, that that would be a commitment that we were interested and he would go on to another market.
 (9) Q And did you, in fact, issue a check?
 (10) A I did not issue a check, but Mr. Sackley did issue a check.
 (11) Q Right then and there?
 (12) A A postdated check, that's correct.
 (13) Q Postdated to when?

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- (1) A If this was on a Thursday, say - I'm not sure - it was postdated until the following Monday or Tuesday. I have no idea. I did not do the check.
 (2) Q Why was the check postdated, if you know?
 (3) A To get him out of town so he wouldn't go to Mr. - the other radio station.
 (4) Q What was the other radio station?
 (5) A WQLR.
 (6) Q Didn't Mr. Harsell cancel the appointment because he had to get to Chicago to another appointment?
 (7) A No, that wasn't the reason he canceled.
 (8) Q Your understanding of the reason he canceled the appointment with WQLR was because of the check?
 (9) A Of our, at that point, alleged commitment to this program.
 (10) Q Were any documents signed, contracts or anything like that?
 (11) A I don't know. I don't think so. I think it was just an issuance of a check.
 (12) Q After Mr. Sackley gave Mr. Harsell the check, I assume Mr. Harsell left and went on to his next appointment?
 (13) A I assume.
 (14) Q Did you then talk about the opportunity with Mr. Sackley and Mr. Miller and Mr. Stoimenoff?
 (15) A I think I - I had more conversation with Mr. Miller and

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- (1) Stoimenoff and Mr. Sackley. During the course of the conversation there was an offer to come to Missoula, Montana and see the operation. Mr. Sackley did not really express any interest in that.
 (2) Q Did anyone?
 (3) A No, not as - not really, other than it was available and that might be some option.
 (4) Q After Mr. Harsell left, you said you did have some discussion with Mr. Miller and Mr. Stoimenoff and Mr. Sackley about the opportunity?
 (5) A I don't know if it was immediately thereafter, but it was between there and the following week, so there must have been another day involved there, yeah.
 (6) Q And what was discussed when you had that follow-up?
 (7) A Just general conversation about how it might work or what the pluses, minuses were.
 (8) Q What was your position?
 (9) A I really had none at that point, other than I was somewhat concerned that maybe this was too soon in our new venture to be getting into something we really didn't know that much about.
 (10) Q What was Mr. Miller's position?
 (11) A I don't recall, other than, I guess, everybody needs

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- (24) banners and it had some possibility.
 (25) Q What was Mr. Stojmenoff's position?

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- (1) A I have no recall at all.
 (2) Q And what was Mr. Sackley's position?
 (3) A I don't think Mr. Sackley - I really don't know what his position was. Evidently he was more concerned of getting
 (4) a good idea, maybe, out of town. I don't know.
 (5) Q Why do you say that?
 (6) A Well, with a postdated check. Let's not make another
 (7) call to another radio station, if it were, in a sense, a
 (8) good idea.
 (9) Q So in the separate meeting that you had within a day or
 (10) two after Mr. Harsell visited, what did you as a group
 (11) conclude as to whether or not you would pursue this
 (12) opportunity on behalf of Crystal Radio Group?
 (13) A I think the conclusion was what I thought, that possibly
 (14) we were getting ourselves into something we really didn't
 (15) know that much about, and maybe the focus should be with
 (16) the merger of the two radio stations.
 (17) Q Did Mr. Sackley indicate to you, in fact, that since he
 (18) was looking to you to have primary responsibility for
 (19) sales, if you were not comfortable with it, that Crystal
 (20) would not proceed with it?
 (21) A No. I don't think - I don't know what he said. I
 (22) recall asking him somewhere down the line if he indeed
 (23) canceled the postdated check.
 (24) Q And what did he tell you?

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- (1) A I don't recall what he said.
 (2) Q So you don't know if the opportunity was ever canceled or
 (3) not?
 (4) A My assumption was it was.
 (5) Q And it was canceled because of the perception that it was
 (6) too soon into the venture to get involved in that
 (7) activity?
 (8) A What his reason for cancelling, I can't speak for that.
 (9) Q That was your expressed reason?
 (10) A When I was asked, that was my expressed reason.
 (11) Q Are you saying, then, that there was no conclusion
 (12) reached at the meeting itself?
 (13) A No, I don't think a definite conclusion.
 (14) Q Were there any follow-up meetings where a definite
 (15) conclusion was reached?
 (16) A We talked about it, I think, periodically throughout the
 (17) next week. Maybe involved - I can't recall. I can't
 (18) recall. It wasn't a high priority item, though.
 (19) Q Do you recall a meeting where a decision was reached not
 (20) to proceed with the Sign-Pro opportunity?
 (21) A No.
 (22) Q And at some point you asked Mr. Sackley if he, in fact,
 (23) had canceled the check?
 (24) A More out of inquiry, yes.
 (25) Q And he told you it was canceled?

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- (1) A I don't recall what he told me.
 (2) Q You don't recall. And you assume it was canceled, but
 (3) you don't know why you assumed it?
 (4) A Well, I can't recall what he said.
 (5) Q Now, after you were removed as a director for Crystal
 (6) Radio Group, did you participate in evaluating the
 (7) Sign-Pro opportunity on behalf of Mr. Dille's stations?
 (8) A No.
 (9) Q After you were suspended in July of '84, did you
 (10) participate in considering the Sign-Pro opportunity for
 (11) any of Mr. Dille's ventures?
 (12) A Did I participate in - no, I did not participate in
 (13) considering the venture from Mr. Dille's operations. Is
 (14) that the question?
 (15) Q Yes.
 (16) A No.
 (17) Q Did you discuss whether this would be an appropriate
 (18) opportunity for Federated Media?
 (19) A The Sign-Pro opportunity for Federated Media, was told to
 (20) me that it was - that it was secured. I had no
 (21) participation in that decision.
 (22) Q Who told you that it was secured?
 (23) A Mr. Dille.

- (24) Q Had you ever discussed it with Mr. Dille prior to the
 (25) time that he told you it had been secured?

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- (1) A No.
 (2) Q Was it your understanding that Sign-Pro wanted to make
 (3) agreements with radio stations within a given market?
 (4) A My understanding was Sign-Pro - they would make
 (5) agreements with anybody in any markets, whether it be
 (6) newspaper, radio, shoppers, television.
 (7) Q And was it your understanding that Sign-Pro licensed the
 (8) Kalamazoo territory to Federated Media?
 (9) A Was it my understanding that they did that?
 (10) Q Yes.
 (11) MR. JONKER: What time?
 (12) Q At any time.
 (13) A At any time, yes.
 (14) Q Do you know why Federated Media licensed the Kalamazoo
 (15) market to John Dille when Mr. Dille had no station in the
 (16) market?
 (17) A Not totally, other than he wanted to have as many
 (18) Sign-Pro opportunities as he possibly could with adjacent
 (19) markets to all of his markets. I mean, I'm assuming. I
 (20) can't speak for Mr. Dille, but -
 (21) Q Now, when was it that Mr. Dille told you that he had
 (22) acquired these Sign-Pro opportunities for Federated
 (23) Media?
 (24) A Maybe in September.
 (25) Q Of 1994? Is the answer yes?

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- (1) A Late August or early September.
 (2) Q When Mr. Dille told you that he had acquired this
 (3) Sign-Pro opportunity, what did you say?
 (4) A I said I was familiar with that. I wasn't aware that he
 (5) knew anything about it. I said, "I think that is the
 (6) same company that I was given a presentation with."
 (7) Q What did Mr. Dille say?
 (8) A I don't recall. I think he stated that Steve Kline and
 (9) Dick Rhodes, who runs our Elkhart radio station, were
 (10) given a similar presentation prior to that, thought it
 (11) was a good idea, brought it to Mr. Dille. And Mr. Dille,
 (12) I don't think, was too excited about it. This is the
 (13) story I get. And then reconsidered.
 (14) Q Do you know what caused Mr. Dille to reconsider?
 (15) A No, I have no idea.
 (16) Q Did you have any further involvement with the Sign-Pro
 (17) opportunity on behalf of Federated Media?
 (18) MR. JONKER: I object to the form of the
 (19) question. It characterizes that conversation as
 (20) involvement on behalf of Federated Media.
 (21) Q Did you have any involvement in connection with the
 (22) Sign-Pro opportunity on behalf of Federated Media?
 (23) A At any time?
 (24) Q At any time.
 (25) A Yes.

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- (1) Q When?
 (2) A It was assigned to me as a special project, probably in
 (3) November.
 (4) Q Or?
 (5) A '84.
 (6) Q Who assigned it to you as a special project?
 (7) A Mr. Dille.
 (8) Q What did he ask you to do?
 (9) A To see if - how I could work with the station managers
 (10) and the various markets to set up Sign-Pro operations in
 (11) each one of the markets.
 (12) Q And what did you do by way of taking over that special
 (13) project?
 (14) A Well, my first project was Elkhart. And I worked with
 (15) the station manager there, acquired a location. We began
 (16) to buy equipment and start a Sign-Pro operation in
 (17) Elkhart.
 (18) Q Anything else?
 (19) A Anything else?
 (20) Q That you did by way of handling this special project for
 (21) the Sign-Pro opportunity?
 (22) A That was more or less working with the station manager
 (23) and coordinating with local managers of Sign-Pros and

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- (24) getting it set up I was not an operator of Sign-Pro,
(25) no.

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- (1) Q Isn't it true that you went to Missoula, Montana?
(2) A Yes.
(3) Q With a group of Federated Media people to evaluate the
(4) opportunity?
(5) A Yes.
(6) Q And that occurred before Federated Media actually
(7) acquired the interest; isn't that true?
(8) A That is not true.
(9) Q When did that occur?
(10) A I mean, to my knowledge, that was not true.
(11) Q When did the trip to Missoula, Montana occur?
(12) A Late September, mid September. I was a guest of the - I
(13) was a guest of Federated Media.
(14) Q Who asked you to go?
(15) A John Dille.
(16) Q Did he say why he wanted you to go?
(17) A Other than we had discussed this and I had indicated I
(18) was knowledgeable about this, we were talking about me
(19) doing some special projects for the company. That was a
(20) possible one project.
(21) Q Was that the first project that you engaged in?
(22) A Yes, it was.
(23) Q Who all went to Missoula, Montana of Federated Media?
(24) A We went in two groups because we had a large group. The
(25) sales managers of our Fort Wayne operation and the

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- (1) general manager of our Fort Wayne operation, our Grand
(2) Rapids sales manager and the sales manager at that time
(3) and myself. I don't know whether Tulsa was there or
(4) not. I don't recall. But there was maybe that group.
(5) Q How long were you there?
(6) A We were in one afternoon and out the next morning.
(7) Q Has the Sign-Pro opportunity for the Kalamazoo market
(8) been utilized in any way by Federated Media?
(9) A No. Not to my knowledge.
(10) Q Is it your understanding that Federated Media still holds
(11) the rights to the Sign-Pro opportunity for the Kalamazoo
(12) market?
(13) A I don't know as of the rights today.
(14) Q Did Federated Media keep separate books and records as
(15) to
(16) the profits that it was making through the Sign-Pro
(17) opportunity?
(18) A Oh, they have separate financial sheets for Sign-Pro.
(19) Q Incidentally, did Jeff Hicks, your son, accompany you to
(20) Missoula, Montana with the Federated Media group?
(21) A He did not accompany me, no.
(22) Q Did he go along to Missoula, Montana?
(23) A Jeff was hired by John Dille to be a - at that time,
(24) co-manager in Ekhar.
(25) Q Of what station? Co-manager of what?
(26) A Of a Sign-Pro operation.

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- (1) Q When was this?
(2) A I think - I don't recall. Jeff went out in September, I
(3) believe it was.
(4) Q Isn't it a fact that Jeff Hicks was still employed by
(5) Crystal Radio Group at the time that he went with the
(6) Federated Media group to Missoula, Montana?
(7) A The answer to that is no.
(8) Q What was Jeff Hicks' employment situation with Crystal
(9) Radio Group, as you understood it, at the time he went to
(10) Missoula, Montana?
(11) A He had resigned his position.
(12) Q At the time of the trip to Missoula, Montana, is it your
(13) belief that Federated Media had already acquired the
(14) Sign-Pro interest?
(15) A Yes.
(16) Q That it was not being evaluated at that time?
(17) A It was not being evaluated.
(18) Q What led you to believe that Federated Media had already
(19) acquired the Sign-Pro interest at the time of the trip to
(20) Missoula, Montana?
(21) A I believe I was told that by Mr. Dille.
(22) Q You mentioned earlier that you were responsible for the

- (23) sales activity at Crystal Radio Group after the merger,
(24) correct?
(25) A That's correct.

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- (1) MR. LUBBEN: May I see the notes that you're
(2) writing?
(3) MR. JONKER: No. It's communications between
(4) counsel. I object. It's privileged.
(5) MR. LUBBEN: There is a specific case that I'm
(6) aware that deals with communications between client and
(7) counsel during a deposition, indicates that it's
(8) inappropriate and it's not privileged.
(9) MR. JONKER: Then bring a motion. I think you
(10) can lay a foundation and you can find out that it's not
(11) refreshing or otherwise influencing his testimony. It's
(12) on other matters.
(13) MR. LUBBEN: I would ask that you secure the
(14) notes at the conclusion of the deposition so I can take
(15) appropriate steps to acquire them.
(16) Q The sales activity you're responsible for -
(17) MR. JONKER: Might I just say, I would like the
(18) notes that are exchanged between you and your client,
(19) because it seems to me that sauce for the goose is sauce
(20) for the gander, if we're going to have communications
(21) between counsel and client subject to scrutiny.
(22) MR. LUBBEN: The case I'm familiar with draws a
(23) distinction between the witness being deposed and any
(24) other communications. And I think that's what makes a
(25) difference. I don't think you're permitted to

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- (1) communicate with your witness on issues, particularly
(2) during the questioning process itself. That's what I
(3) think makes it different. But we can argue it later. I
(4) only ask that you secure the notes so we can raise the
(5) issue if we -
(6) MR. JONKER: And I make the same request for
(7) you.
(8) MR. LUBBEN: All right.
(9) Q Am I correct that you were responsible for sales
(10) activities at Crystal Radio Group after the merger?
(11) A Yes.
(12) Q And Robert Miller was the local sales manager for WKFR
(13) and WKMI, correct?
(14) A Correct.
(15) Q And Steve Stoimenoff was responsible for WRKR?
(16) A And WKMI.
(17) Q Stoimenoff had responsibility for KMI, too? He shared
(18) that with Mr. Miller; is that right?
(19) A That's correct.
(20) Q Had you hired Mr. Miller as a sales manager prior to the
(21) merger?
(22) A He was - yes. He was a sales manager for Hicks
(23) Broadcasting.
(24) Q How long had he worked for Hicks Broadcasting prior to
(25) the merger?

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- (1) A He had worked with Hicks Broadcasting when we acquired
(2) WKMI.
(3) Q So from about 1987 on?
(4) A Correct.
(5) Q And what about Mr. Stoimenoff, when did he come on board?
(6) A With the merger.
(7) Q And had he been working for the Airborne Group, as you
(8) understood it?
(9) A Yes.
(10) Q Now, Mr. Stoimenoff had worked for Hicks Broadcasting at
(11) some point in time?
(12) A When we were in Battle Creek.
(13) Q Which was when? Can you put a year on that?
(14) A Well, that was back in the early days, as we go through
(15) the chronological time period here. I can't recall. But
(16) before '68 - or '88, excuse me. It was back in Battle
(17) Creek.
(18) Q In connection with the merger, had you made certain
(19) projections as to likely sales for WKFR after the merger?
(20) A Yes. For all the radio stations, yes.
(21) Q How was WKFR performing against projections up until July
(22) of '94?

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- (23) A It was on target.
 (24) Q How was WKFR performing against projections?
 (25) A It was on target.

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- (1) Q How about WKMI?
 (2) A KMI was - If I recall, was holding in there. We
 (3) finished - at the July of '94 we were 10 percent total
 (4) above projections, bank projections.
 (5) Q As of?
 (6) A Through July for that year, six months.
 (7) Q Now, you mentioned earlier that Wally Ahlers was one of
 (8) the sales representatives for WKFR; is that right?
 (9) A That's correct.
 (10) Q And he reported to Mr. Miller?
 (11) A Right.
 (12) Q Now, Mr. Miller began trying to implement some changes in
 (13) policy after the merger, correct?
 (14) A Yes.
 (15) Q And Mr. Ahlers didn't approve of some of those changes in
 (16) policy; is that true?
 (17) A I don't know if that's true or not.
 (18) Q Didn't Mr. Ahlers come and complain to you personally
 (19) that he did not like some of the policies that were being
 (20) implemented?
 (21) A I think Mr. Ahlers was concerned about losing the combo
 (22) sales approach.
 (23) Q What do you mean by the combo sales approach?
 (24) A Being able to sell WKFR and WKMI, that this was a
 (25) possibility. He was concerned about a reshuffling of his

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- (1) accounts. I think he was concerned about the policies
 (2) that appeared to be coming forth by the Sackley
 (3) organization.
 (4) Q And what were the policies specifically that he -
 (5) A Some of the same things I indicated earlier. Just
 (6) undesirable atmosphere, working relationships.
 (7) Q What, let me check my notes, because I don't recall
 (8) discussing specific policies.
 (9) You mentioned earlier a change in policy
 (10) regarding the sales allocation between KMI and KFR; is
 (11) that correct?
 (12) A Correct.
 (13) Q Is that the policy change you're talking about?
 (14) A Yes.
 (15) Q What was undesirable about that change, as you understood
 (16) it?
 (17) A Well, the fact that there was a possibility that they
 (18) would be losing accounts, not being able to sell in
 (19) combination. Whether those were in effect or not, they
 (20) were being proposed.
 (21) Q And did Mr. Miller favor that approach?
 (22) A I don't know whether he favored that or not.
 (23) Q Did you tell Mr. Ahlers that he could ignore Mr. Miller?
 (24) A No.
 (25) Q Did you ever tell Mr. Ahlers if he did not like Mr.

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- (1) Miller's approach he could come to you and you would deal
 (2) with the situation directly?
 (3) A Mr. Ahlers had worked with Mr. Miller for a considerable
 (4) time prior to that, so he knew Mr. Miller and knew how
 (5) Mr. Miller operated.
 (6) Q Now, this business of not being able to sell the
 (7) combination KMI and KFR, this was a change in the sales
 (8) policies?
 (9) A No. It was talked about as a proposed way to go. It was
 (10) a lot of -
 (11) Q Who proposed?
 (12) A Mr. Sackley. I think there was a lot of indication of
 (13) change of policy.
 (14) Q Why was Mr. -
 (15) A It was totally unknown.
 (16) Q Why was Mr. Sackley proposing changes in sales policies
 (17) if you were responsible for sales?
 (18) A That's a good question. Mr. Sackley did get involved in
 (19) about everything that happened.
 (20) Q Did you agree or disagree with the concept of
 (21) discontinuing combination sales?
 (22) A My personal opinion was things were pretty good, why

- (23) reinvent the wheel
 (24) Q Was that policy ever changed?
 (25) A I don't believe it was.

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- (1) Q Were there any policies that were changed that Mr. Ahlers
 (2) complained about?
 (3) A I don't recall specifically.
 (4) Q Do you recall any specific policy changes of any kind
 (5) that were made that you believed as inappropriate?
 (6) A At this particular point, I can't think of any. But it
 (7) was just an uneasy feeling.
 (8) Q If you can't think of any specific changes, what were
 (9) people uneasy about? Just the concept that there might
 (10) be change?
 (11) A Yeah. That we had - we really had a new general manager
 (12) of the radio station who was very dictatorial about
 (13) things.
 (14) Q Well, what had he dictated that should be changed?
 (15) A It's the presence of the person, not necessarily what
 (16) happens.
 (17) Q Well, what did he do or say that led you at least to
 (18) think that he was dictatorial?
 (19) A By taking charge of areas that he had designated someone
 (20) else's responsibility.
 (21) Q What area did he take charge of that you perceived to be
 (22) somebody else's responsibility?
 (23) A The sales area.
 (24) Q Now, how did he go about taking charge of the sales
 (25) area? I assume you're talking about Mr. Sackley; is that

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- (1) correct?
 (2) A Yes.
 (3) Q And you're saying Mr. Sackley took charge of the sales
 (4) area?
 (5) A It appeared he was trying to take charge of the sales
 (6) area, that is correct.
 (7) Q What did he do or say that caused it to appear that he
 (8) was trying to take charge of the sales area?
 (9) A He would have periodic meetings, without me involved,
 (10) with the sales managers, with the individual salespeople
 (11) regarding sales.
 (12) Q When did he meet with sales managers or salespeople
 (13) without you being present?
 (14) A Specific dates or times - it happened periodically.
 (15) Q How did you know it happened?
 (16) A Because I would see it and people told me.
 (17) Q Who told you?
 (18) A Mr. Miller would tell me quite often about it.
 (19) Q What did Mr. Miller say?
 (20) A Mr. Miller was very frustrated.
 (21) Q What was he frustrated about? Did he tell you?
 (22) A No. I mean, I can't recall.
 (23) Q Did Mr. Miller ever tell you that he was frustrated about
 (24) the fact that he was trying to change sales policies and
 (25) you were not backing him?

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- (1) A No.
 (2) Q Did he ever complain to you that it appeared to him that
 (3) you were not backing him in his role as sales manager?
 (4) A No.
 (5) Q Did he ever tell you anything specifically that he was
 (6) frustrated about?
 (7) A Mr. Sackley.
 (8) Q Did Mr. Miller say what he was frustrated about with
 (9) respect to Mr. Sackley?
 (10) A Yeah. I don't recall specifically none.
 (11) Q You can't recall a single specific thing he was
 (12) frustrated about with Mr. Sackley?
 (13) A Just his meddling in the affairs of the sales department.
 (14) Q Did he indicate what Mr. Sackley had done -
 (15) A No.
 (16) Q (Continuing) - that he considered to be meddling?
 (17) A I don't recall. He possibly did.
 (18) Q Do you have any recollection of Mr. Sackley doing
 (19) anything that you considered to be meddling in the sales
 (20) affairs?
 (21) A I know we had a meeting with Mr. Miller one evening
 (22) and - at the issuance of Ed Sackley, and it was major

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- (23) discussion with Mr. Miller on how he was not performing
(24) in his duties.
(25) Q So there was a meeting with Mr. Miller?

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- (1) A And Mr. Sackley and myself.
(2) Q And this was discussed, deficiencies in Mr. Miller's performance?
(3) A Yes.
(4) Q Did you believe there were deficiencies in Mr. Miller's performance?
(5) A I thought we were going through a merger process that needed time to work itself out.
(6) Q So did you believe there were deficiencies in Mr. Miller's performance?
(7) A Mr. Miller worked for me for a number of years.
(8) Q So did you believe there were deficiencies in Mr. Miller's performance?
(9) A No.
(10) Q Did you think there was anything you needed to talk with him about in terms of the way he was doing his job?
(11) A Yeah, periodically there is a lot of things to talk to managers about.
(12) Q So how did this meeting come about?
(13) A Mr. Sackley's call.
(14) Q And did Mr. Sackley indicate what he wanted to talk about?
(15) A About Mr. Miller's performance.
(16) Q And did he indicate what he was concerned about with respect to Mr. Miller's performance?

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- (1) A I think he thought that maybe he didn't have the respect of the other salespeople. He wasn't setting goals.
(2) Beyond that, I don't know. This has been some time ago.
(3) I can't recall all of it.
(4) Q That was one of the questions I had. When did this occur, how long after the merge?
(5) A It wasn't too far after. Everything happened shortly after the merger. I don't know.
(6) Q Was it in 1993 or 1994?
(7) A It might have been early '94. I can't recall.
(8) Q Now, did Mr. Sackley come to you to suggest this meeting?
(9) A He said that he was going to have Miller stay, yeah, and talk to him. It went on into the evening, I recall.
(10) Q And were, in fact, the actual sales numbers below projection at that time?
(11) A I don't recall that they were, no.
(12) Q Did you agree that it was appropriate to have the meeting?
(13) A I don't have any problems with having meetings with people. I just think there is a chain of command and there is an approach, proper approach to it. I didn't think this was a proper approach.
(14) Q And what was it about this approach that you thought was improper?
(15) A Number one, if I was going to be designated as the sales

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- (1) area, then it probably should come from me. If Ed had some concern about it, he could address those concerns to me.
(2) Q You said this meeting took place at the office?
(3) A Yes.
(4) Q It lasted how long?
(5) A It was a long meeting. It lasted -- early evening into about 9:00 o'clock at night.
(6) Q Isn't it a fact that at that point WRKR was meeting its sales projections and WKFR was not?
(7) A I'm not aware of that, no.
(8) Q You don't have any recollection of that?
(9) A No, I don't. The sales projections were being met, to my knowledge.
(10) Q That's your recollection?
(11) A Oh, sure.
(12) Q Did you agree that Mr. Miller perhaps did not have the respect of the other sales representatives?
(13) A I think so.
(14) Q Did you have a feeling as to why he didn't have the respect?
(15) A In some cases seniority. But that has been a -- that was

- (23) a lingering, long-time problem. I didn't let it get in the way.
(24) the way.
(25) Q Did you think it was appropriate to have a discussion

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- (1) with Mr. Miller about this --
(2) A I think it's always appropriate to have discussions with your department heads, right.
(3) Q Now, you said --
(4) A Mr. Sackley didn't understand those things, however, because it was new -- these were new people to him.
(5) Q What is it that you don't think Mr. Sackley understood?
(6) A That possibly the respect aspect wasn't there, that maybe he wasn't functioning the way that Mr. Sackley likes to have people function. And that's a legitimate concern, but I think there is a channel that we should go through to talk about.
(7) Q So when you talk about Mr. Sackley meddling, you're saying the fact that he called this meeting, as opposed to you, was what constituted the meddling?
(8) A Yes. And dominated the meeting. That's correct.
(9) Q How did he dominate the meeting?
(10) A By taking right over and asking all the questions and carrying on a conversation.
(11) Q What did he ask?
(12) A Well, I think we covered the whole waterfront of sales and Bob Miller's contribution to the company, the whole thing.
(13) Q Well, what question --
(14) A Well, I don't know. This has been some time ago, again.

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- (1) Q If the company was meeting projections, or if the station was meeting projections, why were there questions?
(2) A Well, that's -- that's a good question. I don't know. I can't answer that.
(3) Q And you have no recollection of what the questions were?
(4) A Other than -- I don't think Mr. Sackley liked Mr. Miller to begin with, and I think he was trying to find a reason for an exit.
(5) Q Listen to my question. Do you have any recollection of what questions were asked?
(6) A No.
(7) Q How did this meeting with Bob Miller end?
(8) A Oh, no conclusion. It was just conversation meeting.
(9) Q Is there anything else that Mr. Sackley did that you viewed as inappropriate meddling besides scheduling the meeting with Mr. Miller?
(10) A In that regard, no. I don't -- I can't answer. I don't --
(11) Q You can't recall anything else he did that you considered improper meddling in the sales area?
(12) A He told a sales rep at the WRKR -- I was putting out some ratings material. The sales rep's name was Greg Newsted. And he made a big issue of the fact that, "Don't pay any attention to the material that Hicks put out. It's not necessary."

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- (1) Q Who was Greg Newsted?
(2) A He was an employee of -- sales rep at WRKR.
(3) Q What material were you putting out?
(4) A Ratings material.
(5) Q What type of ratings material?
(6) A This was a secondary rating program called Accu Ratings.
(7) Q And who were you distributing this ratings material to?
(8) A The entire sales force.
(9) Q For all three stations?
(10) A That's correct.
(11) Q Why were you distributing it?
(12) A Because it was being distributed on the street. I thought it was proper ammunition for all radio sales reps.
(13) Q And what's your understanding of what Mr. Sackley said about this material?
(14) A "Don't pay any attention to anything Hicks put out on these ratings."
(15) Q Who told you that, that Mr. Sackley had said this?
(16) A Mr. Newsted had told me this.
(17) Q When did this occur?
(18) A Again, I have no recollection of dates.

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- (23) Q Did you check with Mr. Sackley to see whether, in fact,
(24) he had said this?
(25) A No.

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- (1) Q Why not?
(2) A Again, it wasn't necessary.
(3) Q Well, if you wanted to maintain a positive relationship,
(4) isn't that the kind of thing that you would want to
(5) confront and address?
(6) A Yeah. There were probably a lot of things that you
(7) wanted to confront and address. But at that particular
(8) time, I think it had pretty well broken down.
(9) Q Why had it broken down?
(10) A We just went all through this, Craig.
(11) MR. JONKER: Yes, we did. I think there was a
(12) long discussion this morning about reasons for the
(13) tension between Hicks and Sackley from day one. And I
(14) hope we don't have to cover that whole ground again.
(15) Q Is there anything else that Mr. Sackley did that you
(16) perceived to be meddling in the sales area besides what
(17) you described?
(18) A I don't recall any specifics.
(19) Q Did Bob Miller ultimately leave Crystal Radio Group's
(20) employment?
(21) A It was my understanding that he was terminated, right.
(22) Q When was that?
(23) A I don't know.
(24) Q Before or after you were placed on a leave?
(25) A It was after.

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- (1) Q Have you talked with Mr. Miller at all since you were
(2) placed on leave?
(3) A Yes.
(4) Q When?
(5) A Midsummer.
(6) Q Why?
(7) A I think I received a call from Bob Miller or I placed a
(8) call regarding a Robin Hook situation.
(9) Q Why?
(10) A I don't know why.
(11) Q What was the Robin Hook situation that you called or were
(12) called about?
(13) A Robin - I guess I was called. Robin had indicated his
(14) desire to get out of the radio station, was anticipating
(15) taking another job at Western Michigan University. It
(16) was just a point of discussion. And I was a sounding
(17) board, I guess.
(18) Q What did Mr. Miller ask you?
(19) A He was just, I guess, inquiring if I was aware of - I
(20) think Mr. Miller was a sounding board, also.
(21) Q For who?
(22) A For Mr. Hook.
(23) Q I'm confused. Mr. Miller was contacting you to ask you
(24) if you had heard that Mr. Hook had gone to -
(25) A It was just a friendly conversation. We hadn't talked in

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- (1) a while. And that was part of the conversation.
(2) Q Anything else that you can recall being discussed with
(3) Mr. Miller?
(4) A No.
(5) Q Have you had any other discussions with him since you
(6) were suspended by Crystal Radio Group?
(7) A No.
(8) Q Have you ever talked with Bob Miller about why he left
(9) the employment of Crystal Radio Group?
(10) A I didn't ask Bobby about any specifics why he left. I
(11) was inquiring - we were talking about his new position,
(12) which he seemed excited about.
(13) Q Do you know why Wally Ahlers left the employment of
(14) Crystal Radio Group?
(15) A I suspect that he just didn't want to be part of the new
(16) merger. I think it made him nervous.
(17) Q Do you know when Wally Ahlers left Crystal Radio Group?
(18) A It was shortly after the merger.
(19) Q Prior to your suspension?
(20) A Yes.
(21) Q Did you discuss with Mr. Ahlers why he was leaving
(22) Crystal Radio Group?

- (23) A I talked to his wife at our first Christmas party. And
(24) she expressed that Wally was very, very unhappy with the
(25) merger, was very concerned about Mr. Sackley, and was

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- (1) probably ready to make a move and do something else or
(2) retire.
(3) Q Did she say what it was that he was concerned about with
(4) respect to Mr. Sackley?
(5) A No.
(6) Q Did you know?
(7) A Pardon me?
(8) Q Did you know?
(9) A I didn't inquire.
(10) Q Do you know today?
(11) A No.
(12) Q How long had Mr. Ahlers worked with you?
(13) A He had worked for me - he was there when I bought the
(14) radio - when I came to Battle Creek, whatever year that
(15) was.
(16) Q Now, did he actually retire?
(17) A He retired.
(18) Q How long had he been discussing his retirement before he
(19) actually retired?
(20) A The first I knew about it was at our Christmas party of
(21) '93.
(22) Q Did you meet with Mr. Ahlers privately on occasion?
(23) A On occasion.
(24) Q On any of those occasions did he express to you any
(25) dissatisfaction with Ed Sackley?

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- (1) A In general conversation, right.
(2) Q What did he say he was dissatisfied with?
(3) A I don't specifically recall. He was just very, very
(4) nervous about the whole merger.
(5) Q Did he indicate what it was that was making him nervous?
(6) A No. I don't recall.
(7) Q Had the sales at Hicks Broadcasting prior to the merger
(8) been increasing or decreasing from year to year?
(9) A I think they remained pretty flat.
(10) Q What impact, if any, did that have on the income of the
(11) salespeople?
(12) A Well, obviously it would have some impact. Sales are
(13) directly related to ratings. And the radio station is
(14) what we call a contemporary hit radio station.
(15) Contemporary hit radio stations were not favored formats
(16) across the nation, so they remained flat. We exceeded
(17) the ratio of what normal contemporary hit radio stations
(18) do billing-wise, but it did level off. And I don't think
(19) there was a lot of growth for the salespeople. But
(20) that's true in this business.
(21) Q Did you have drops of as much as \$500,000 a year from
(22) year to the next in sales?
(23) A I don't know what particular year, but there is possible
(24) that one of the years we might have, yes.
(25) Q And did that result also in a reduction in the income of

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- (1) the salespeople?
(2) A Oh, certainly.
(3) Q And was that a cause of some concern or unrest among the
(4) salespeople?
(5) MR. JONKER: Are you talking prior to merger?
(6) Q Prior to merger.
(7) A Well, all of my salespeople remained intact up until
(8) post-merger.
(9) Q I understand.
(10) A They had been with me for a considerable length of time.
(11) They rode highs and they rode lows. The reason for
(12) leaving - because they were there for upwards of eight
(13) to ten years, would indicate that there is some other
(14) reason for leaving.
(15) Q But you don't know what that is in the case of Wally
(16) Ahlers because you didn't ask him?
(17) A No. Wally Ahlers was retiring, and that was good enough
(18) for me.
(19) Q And in connection with Bob Miller, you don't know why he
(20) left, either?
(21) A Well, I wasn't there when he left. I have no idea.

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- (22) Q And what about Pam Meyer?
 (23) A Pam Meyer got a - I guess, a job at a telephone yellow
 (24) page company
 (25) Q When did Pam Meyer leave, if you know?

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- (1) A It was shortly there after the merger.
 (2) Q While you were still at Crystal Radio Group?
 (3) A Right.
 (4) Q Did she ever tell you why she was leaving?
 (5) A Not specifically, other than she had a better opportunity
 (6) and was probably nervous.
 (7) Q Well, was probably, or did she tell you she was nervous?
 (8) A I think she said she was nervous about the merger.
 (9) Q Did she tell you what it was about the merger that made
 (10) her nervous?
 (11) A I don't - I can't recall anything specific.
 (12) Q Did Pam Meyer have national sales responsibilities for
 (13) Crystal Radio Group at one point?
 (14) A Not at Crystal Radio Group, no.
 (15) Q Did she have national sales responsibilities for Hicks
 (16) Broadcasting?
 (17) A She was the sales assistant or sales secretary slash
 (18) local sales rep for Hicks Broadcasting in national sales,
 (19) that's correct, which means that she took the orders and
 (20) wrote them up.
 (21) Q Were those responsibilities taken away from her after the
 (22) merger?
 (23) A Yes.
 (24) Q Why?
 (25) A We didn't need that particular person at that time.

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- (1) Q Who made the decision to take them away from her?
 (2) A I think it was a combination of both Ed and I in
 (3) discussion.
 (4) Q Who informed her that they were being taken away?
 (5) A I did.
 (6) Q Did that result in a loss of pay for her?
 (7) A Yes, it did.
 (8) Q How much?
 (9) A I think we were - I don't recall, but I think she was
 (10) being paid some sort of a monthly salary to do that along
 (11) with her national sales - or along with her local sales.
 (12) Q Did it result in a reduction of \$5,000 per year?
 (13) A That might have been.
 (14) Q And was she unhappy about that?
 (15) A I don't recall that she indicated she was totally
 (16) unhappy. I think she expected that.
 (17) Q Did she ever indicate whether the \$5,000 per year
 (18) reduction in income had anything to do with her decision
 (19) to leave?
 (20) A No.
 (21) Q Did she also lose some trade accounts as part of the
 (22) merger?
 (23) A I'm not aware of what trade accounts she might have had.
 (24) Q In fact, was her total income reduced by about \$10,000 a
 (25) year?

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- (1) A I don't know.
 (2) Q You don't know whether or not reduction of income had
 (3) anything to do with her decision to leave?
 (4) A No. I think just fear of the unknown with the merger.
 (5) Q Did Ed Sackley, to your knowledge, do anything that you
 (6) believe led Pam Meyer to decide to leave?
 (7) A I don't know what Ed Sackley did directly to Pam Meyer.
 (8) Q So you're not aware of anything that he did that may have
 (9) caused her to leave?
 (10) A No.
 (11) Q In fact, did Ed Sackley try to talk her out of leaving,
 (12) to your knowledge?
 (13) A I don't think Ed, to my knowledge, had any conversation
 (14) with her. I don't know.
 (15) Q When did Marilyn White leave Crystal Radio Group?
 (16) A She left shortly after the merger.
 (17) Q Did she tell you why she was leaving?
 (18) A Yeah. She was very unhappy with - she could see that it
 (19) wasn't anything she wanted to continue to do.
 (20) Q Did she tell you what it was that caused her to want to
 (21) leave?

- (22) A Not specifically, other than she just didn't think she
 (23) could get along with Mr. Sackley.
 (24) Q Did she tell you that?
 (25) A Yeah. Yes.

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- (1) Q Did she say what it was about Mr. Sackley that caused her
 (2) to think she couldn't get along?
 (3) A I don't recall specifics.
 (4) Q How did you feel about Miss White leaving?
 (5) A Well, Miss White was with me for a long time, and I felt
 (6) badly about it, but I also understood.
 (7) Q Did you try to talk her out of it?
 (8) A Yes, I did. In fact, I asked her to reconsider.
 (9) Q What did she tell you?
 (10) A She was not going to entertain to reconsider.
 (11) Q What about Michael Klein, when did he leave?
 (12) A All of these are about the same time period. And I don't
 (13) know dates.
 (14) Q Before you were suspended?
 (15) A Yes.
 (16) Q Did Mr. Klein tell you why he was leaving?
 (17) A He had been offered a job with the Kalamazoo Wings.
 (18) Q Is that the only reason he gave?
 (19) A Well, he had been offered a job with the Kalamazoo Wings.
 (20) Q Did he ever express any dissatisfaction with Ed Sackley
 (21) or the way the station was being run after the merger?
 (22) A Again, that's all part of the picture with all of them.
 (23) But in this case, I think he had something that he
 (24) enjoyed doing, and that was being a play-by-play sports
 (25) broadcaster.

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- (1) Q Did he ever say anything to you that caused you to
 (2) conclude that he was unhappy with Ed Sackley or that was
 (3) a factor in his decision?
 (4) A Yeah, he didn't like Ed Sackley.
 (5) Q When did he tell you that?
 (6) A I guess many times after the merger.
 (7) Q Did he say what it was that he didn't like?
 (8) A No. He just didn't like him.
 (9) Q Was Mr. Klein one of the people who had an arrangement
 (10) with a gas station whereby he was receiving free gasoline
 (11) and service in exchange for advertising on the station?
 (12) A He had an advertising trade. He lived in Battle Creek,
 (13) that's correct.
 (14) Q And wasn't that taken away as part of the merger?
 (15) A It possibly could have been.
 (16) Q Did he indicate that was what he was unhappy about?
 (17) A I think that may have been part of the whole picture. I
 (18) don't know.
 (19) Q Who was Jerry Balletta?
 (20) A Jerry Balletta.
 (21) Q Balletta.
 (22) A Jerry was a radio announcer for WKFR.
 (23) Q When did he work for WKFR?
 (24) A Again, I don't know the dates.
 (25) Q Did he leave prior to the merger?

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- (1) A I think he did. I can't recall when Jerry left.
 (2) Q Did you have an arrangement or did you allow Mr. Balletta
 (3) to have an arrangement whereby he functioned as a disc
 (4) jockey at a local club?
 (5) A I wasn't aware of his local club activities, no.
 (6) Q Did he get into some trouble for failure to report income
 (7) from some of those activities?
 (8) A I'm not aware of anything like that.
 (9) Q Crystal Radio Group actually receive a tax lien from the
 (10) IRS because of some unpaid taxes of Mr. Balletta?
 (11) A Again, I recall possibly, but that might have been a
 (12) business manager's affair. I don't know.
 (13) Q Did you make arrangements to do promotional activities
 (14) with Kalamazoo Sportswear from time to time?
 (15) A Did I make arrangements?
 (16) Q Yes.
 (17) A No.
 (18) Q Kalamazoo Sportswear ever make any direct cash or check
 (19) payments to you personally?
 (20) A To me personally?
 (21) Q Yes.

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- (22) A No.
 (23) Q Now, you testified that you began to do special projects
 (24) for Federated Media in November of 1994; is that right?
 (25) A I believe it was November.

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- (1) Q And how were you compensated for your activities?
 (2) A How was I compensated?
 (3) Q Right.
 (4) A I was an employee of Federated Media and I was assigned
 (5) to special projects and paid - paid by Federated Media
 (6) for that.
 (7) Q You became an employee in November of 1994?
 (8) A I think it was that time, yes.
 (9) Q At what rate were you paid?
 (10) A I don't even recall, because it was in bonus
 (11) arrangements. I'm not even sure.
 (12) Q What do you mean by "bonus arrangements"?
 (13) A Well, part of my duties were in national sales, so I
 (14) think at that point it was around, I'm not sure, \$70,000.
 (15) Q \$70,000 per year in salary?
 (16) A I believe it was, yeah.
 (17) Q And did you also receive bonuses and commissions on top
 (18) of that?
 (19) A It was scheduled, yeah, but that particular - special
 (20) project duties changed.
 (21) Q When did they change?
 (22) A In July of this year.
 (23) Q July of 1995?
 (24) A Yes.
 (25) Q Is that right? Let's focus on the period from November

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- (1) of '94 up until July of '95. Did you do anything else
 (2) besides the Sign-Pro activities and national sales work
 (3) for Federated Media?
 (4) A No.
 (5) Q Were you paid anything beyond the \$70,000 in salary?
 (6) A No. Well, other than expenses.
 (7) Q And on July 1st of '95 the activities changed?
 (8) A Correct.
 (9) Q And how did they change?
 (10) A I was - well, they changed because I took the position
 (11) of general manager of the Grand Rapids radio properties.
 (12) Q And what stations are included in the Grand Rapids radio
 (13) properties?
 (14) A WJGX FM, WCUZ FM, WCUZ AM.
 (15) Q And what have you been paid since July 1st of '95?
 (16) A Approximately 100,000.
 (17) Q \$100,000 a year in salary?
 (18) A Approximately, right.
 (19) Q Do you receive anything beyond the salary?
 (20) A Not at this point.
 (21) Q Bonuses?
 (22) A There are some - there are some bonuses attached, yes.
 (23) Q What are the bonuses?
 (24) A Well, they would be a percent of the growth of the
 (25) company.

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- (1) Q Is this agreement in writing?
 (2) A No.
 (3) Q How is the bonus based on percentage of growth, how is
 (4) that supposed to be calculated?
 (5) A I'm not real sure.
 (6) Q How do you know if you're entitled to one?
 (7) A I - it's through the business office. And I can't tell
 (8) you exactly the formula right now.
 (9) Q Who would know the formula?
 (10) A Probably Mr. Watson.
 (11) Q Have you received any bonuses yet?
 (12) A No.
 (13) Q Have you been told that any bonuses are accruing?
 (14) A No.
 (15) Q Have you been told whether the station is performing at a
 (16) level where you're likely to get a bonus?
 (17) A No. We have a lot of building to do.
 (18) Q You receive fringe benefits in addition to your \$100,000
 (19) per year in salary?
 (20) A Yes.
 (21) Q And what do those benefits include?

- (22) A Those benefits include insurance package, participation
 (23) in a 401-K program. I guess that's it.
 (24) Q What are the arrangements of the 401-K? Does the
 (25) employer make a contribution on your behalf?

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- (1) A After a certain period of time, I think that's - I
 (2) haven't been a contributor that long.
 (3) Q What percentage does the employer contribute?
 (4) A I don't know.
 (5) Q Is there an employee manual or something that sets forth
 (6) what these benefits are?
 (7) A Yes.
 (8) Q And do you have a copy of that manual?
 (9) A Yes.
 (10) Q What's it called?
 (11) A Federated Media Employee Manual.
 (12) Q Did you have an opportunity to participate in a 401-K at
 (13) Crystal Radio Group?
 (14) A Yes.
 (15) Q And did you decline that opportunity?
 (16) A Yes.
 (17) Q Why?
 (18) A I was not - I just didn't particularly want to be
 (19) involved in a 401-K.
 (20) Q Your salary at Crystal Radio Group prior to your
 (21) suspension was what?
 (22) A 135,000.
 (23) Q Wasn't it, in fact, 104,000 a year, potential for \$30,000
 (24) a year bonus?
 (25) A The bonus was paid. It was a salary of 134,000, you're

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- (1) right. It was not allocated 104,000. It was
 (2) allocated - it was a monthly amount of 134,000.
 (3) Q Directing your attention to what was previously marked as
 (4) Exhibit 7, the board of directors meeting minutes from
 (5) September 28, 1993, it says on the first page,
 (6) "Compensation of Executive Management. It was moved by
 (7) Sackley, Sr. and seconded by Brown to compensate Hicks
 (8) and Sackley III at a salary level of 104,000 and a bonus
 (9) of 30,000. The amounts would be reviewed by the board at
 (10) the first meeting following January 1st, 1995. Motion
 (11) approved."
 (12) Is it consistent with your recollection that it
 (13) was 104,000 salary and a bonus of 30,000?
 (14) A That's the way it was allocated, right. I was paid
 (15) \$134,000.
 (16) Q You were paid on a - let me ask you this: Crystal Radio
 (17) Group -
 (18) A On a biweekly basis of 134,000, not 104,000. The bonus
 (19) was included in the biweekly.
 (20) Q And did you understand that that could be changed by the
 (21) board and, in fact, would be reviewed as of January 1st
 (22) of 1995?
 (23) A That's what those minutes said, yes.
 (24) Q Do you know whether, in fact, the board eliminated the
 (25) bonus after January 1st of 1995?

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- (1) A No, they did not.
 (2) Q How do you know that?
 (3) A I was never notified that they did.
 (4) Q So you don't know one way or the other?
 (5) A Well, I was paid \$134,000 a year on a biweekly basis.
 (6) Q Was it your understanding that you and Mr. Sackley were
 (7) supposed to be paid at the same level?
 (8) A Yes.
 (9) (Discussion held off the record between Mr.
 (10) Lubben and Mr. Sackley.)
 (11) Q Do you know whether your bonus for Federated Media is
 (12) likely to approach 30,000?
 (13) A I have no idea. I don't know if there even will be one.
 (14) Q And, again, the only person who would know that would be
 (15) Bob Watson?
 (16) A Or John Dille.
 (17) Q Is the bonus with Federated Media totally discretionary
 (18) or is it formula based?
 (19) A Discretionary.
 (20) Q Did you discuss with Mr. Dille potential amounts of
 (21) bonus?

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- (22) A No.
 (23) Q Have you had any other employment since you were
 (24) suspended by Crystal Radio Group other than with
 (25) Federated Media?

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- (1) A No.
 (2) Q Have you had any discussions with the Dilte children
 (3) about exercising your option to have them buy you out?
 (4) A No.
 (5) Q Have they talked with you about desiring to exercise
 (6) their option to buy you out?
 (7) A They have not.
 (8) Q Do you have any ownership interest in the Sign-Pro
 (9) business?
 (10) A I do not.
 (11) Q Prior to obtaining the employment with Federated Media in
 (12) November of '94, did you look for any other work?
 (13) A No.
 (14) Q Send out any other resumes?
 (15) A No.
 (16) Q Any job applications?
 (17) A I did not.
 (18) Q Did you turn down any other employment?
 (19) A No. I did not discuss any with anybody.
 (20) Q Why not?
 (21) A I wasn't particularly interested in that particular
 (22) point.
 (23) Q So from July of '94 until November of '94 you really
 (24) weren't looking for work?
 (25) A That's correct.

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- (1) Q Who is John Kulba?
 (2) A John Kulba?
 (3) Q Yes.
 (4) A Judd Kulba, I believe, is a news person at WKMI radio, or
 (5) was.
 (6) Q Was he hired before or after the merger?
 (7) A I believe he was pre-merger.
 (8) Q Following the merger, did you speak on occasion with Mr.
 (9) Kulba about his job performance?
 (10) A I've talked to Mr. Kulba about his job performance, but I
 (11) can't recall when. It was probably pre-merger.
 (12) Q Did you have some concerns with him about his on air
 (13) broadcasts?
 (14) A Yes.
 (15) Q What were your concerns?
 (16) A His delivery and his capability of gathering news.
 (17) Q Did you discuss those concerns about Mr. Kulba's
 (18) performance with Ed Sackley?
 (19) A I don't recall that, because this might have been
 (20) pre-merger.
 (21) Q He continued as an employee of Crystal Radio Group after
 (22) the merger, did he not?
 (23) A To my understanding, yes.
 (24) Q Did you discuss his job performance with Ed Sackley at
 (25) any time after the merger?

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- (1) A I don't recall that person specifically, no.
 (2) Q Would you agree that concerns about his on-air broadcasts
 (3) would be questions of programming?
 (4) A Oh, certainly.
 (5) Q And Mr. Sackley was supposed to be responsible for
 (6) programming?
 (7) A That's what he said, yes.
 (8) Q So if you expressed concerns to Mr. Sackley about Mr.
 (9) Kulba's on-air performance after the merger, would you
 (10) view that as meddling in the performance area?
 (11) A Not at all, because I think at the early stages we were
 (12) discussing things like that. That was sharing.
 (13) Q And that was appropriate?
 (14) A Sharing was appropriate, as far as I'm concerned.
 (15) Q So that if Mr. Sackley had concerns about the sales area,
 (16) it would be appropriate for him to share those with you?
 (17) A If they were sharing, certainly.
 (18) Q Were you paid any sort of a bonus by Federated Media
 (19) based on the performance of the Sign-Pro stations?
 (20) A No.
 (21) Q Sign-Pro businesses?

- (22) A No.
 (23) Q During the time that Marilyn White was the business
 (24) manager, did you give her instructions to show trade and
 (25) barter transactions on the books as having zero value?

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- (1) A I don't recall. I don't recall ever making a specific
 (2) policy regarding any way to run the books.
 (3) Q Did you ever direct her that she should show barter
 (4) transactions as income to employees if the employees
 (5) received the benefit of the barter?
 (6) A Again, I don't recall ever telling Marilyn how to do her
 (7) job as business manager.
 (8) Q Did you ever respond to questions from Marilyn as to how
 (9) she ought to book barter transactions or trade
 (10) transactions?
 (11) A Marilyn had been doing this for a long, long time, and I
 (12) didn't - wasn't directing her how to do her job.
 (13) Q Did Marilyn White receive a special break on her health
 (14) insurance that the other employees did not receive?
 (15) A She might have. I'm not sure. I can't recall.
 (16) Q Do you recall what that break was?
 (17) A No. If it was -
 (18) Q Why was that done?
 (19) A If it was done, it was part of a compensation package.
 (20) Q When was the last time you spoke with Marilyn White?
 (21) A I haven't talked to Marilyn since she left the company.
 (22) Q To your knowledge, did Marilyn White ever tell Ed Sackley
 (23) that she could not comply with his requests for financial
 (24) information unless you approved it?
 (25) A I don't know what her conversation with Ed Sackley was.

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- (1) Q Did you ever tell Marilyn White that she should not give
 (2) Ed Sackley access to financial information unless you
 (3) approved it?
 (4) A I never did, no.
 (5) Q Did Ed Sackley ever complain to you that Marilyn was
 (6) refusing to provide him with requested information unless
 (7) you approved it?
 (8) A I don't recall that Ed Sackley was ever deprived of any
 (9) information.
 (10) Q Do you recall him ever telling you she couldn't give him
 (11) stuff without you approving it?
 (12) A No.
 (13) Q Who is Jerry Lord?
 (14) A Pardon me?
 (15) Q Who is Jerry Lord?
 (16) A Jerry Lord was a former employee of Hicks Broadcasting.
 (17) Q What did he do for Hicks Broadcasting?
 (18) A He was a morning personality.
 (19) Q Did he quit his job with Hicks Broadcasting?
 (20) A Yes.
 (21) Q When?
 (22) A I believe he did. When WRKR went on the air, back
 (23) whatever year that was.
 (24) Q Why did he quit?
 (25) A Because he was - he accepted a job with Mr. Sackley at

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- (1) his radio station.
 (2) Q Did Mr. Lord give you notice that he was terminating his
 (3) employment with Hicks Broadcasting?
 (4) A Well, obviously he did. Maybe not to me personally, but
 (5) to the program director.
 (6) Q Did you take all of his personal items out of his office
 (7) and put them in the cardboard box and stick them out the
 (8) back door?
 (9) A Did I?
 (10) Q Hicks Broadcasting?
 (11) A No, I did not.
 (12) Q Did you tell your staff that they should not associate
 (13) with Mr. Lord after he announced he was leaving?
 (14) A No. I don't tell people they shouldn't associate with
 (15) Mr. Lord.
 (16) Q So you deny that you ever did that?
 (17) A Yes.
 (18) Q Have you had any appraisals done of the value of Hicks
 (19) Broadcasting of Indiana, LLC?
 (20) A No.
 (21) MR. LUBBEN: Let's take a short break.

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ATTACHMENT K

0001

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF KALAMAZOO

DAVID L. HICKS,

Plaintiff,

-vs-

File No.: B 94-3608-MZ

CRYSTAL RADIO GROUP, INC.,

a Michigan corporation,

EDWARD J. SACKLEY, III,

individually and as Trustee of

the EDWARD J. SACKLEY, II,

RICHARD C. DOERING,

JOHN M. STRANDIN,

JANICE J. SACKLEY, individually

and as Trustee of the

Janice J. Sackley Trust,

RICHARD R. ZARAGOZA,

ELISE R. ZARAGOZA and

EDWARD J. SACKLEY, Trustee of

the Edward J. Sackley Trust,

Defendants.

Deposition of JOHN F. DILLE, IV, taken under the provisions of the Michigan Court Rules before Jennifer M. Van Alstine, RPS-CN (CBE 0038), Certified Shorthand Reporter and Notary Public, at 301 South Main Street, Suite 306, Elkhart, Indiana, on Tuesday, January 30th, 1996, commencing at or about 2:05 p.m., pursuant to Notice.

VAN ALSTINE REPORTING
 Certified Shorthand Reporters
 232 West Michigan Avenue, Suite B
 Kalamazoo, Michigan 49007
 1-800-828-1233 or 616-344-4716
 FAX - 616-344-6459

0002

APPEARANCES:

No appearance for Plaintiff

MR. CRAIG H. LEBBEN

Attorney for Defendants

425 West Michigan Avenue

Kalamazoo, Michigan 49007

MR. PAUL E. BECHER

Attorney at Law

Suite 306

301 South Main Street

Elkhart, Indiana 46516

ALSO PRESENT:

Mr. Ed Sackley

INDEX

WITNESS:

JOHN F. DILLE, IV

Direct Examination by Mr. Lebben

PAGE:

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EXHIBITS

None marked

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- (1) PROCEEDINGS
 (2) JOHN F. DILLE, IV
 (3) being first duly sworn by the reporter, was examined and testified under oath as follows:
 (4) DIRECT EXAMINATION
 (5) BY MR. LUBBEN:
 (6) Q Would you state your name for the record.
 (7) A My name is John Flint Dille, IV.
 (8) Q Mr. Dille, this is a deposition being taken in the case of David Hicks versus Crystal Radio Group. Have you ever been deposed before?
 (9) A Yes.
 (10) Q And you know that this is a question and answer format and that we have a court reporter here who will prepare a transcript of the questions and answers? Do you understand that?
 (11) A Yes, I do.
 (12) Q That transcript can be used later on in court, so it's important that we be clear with each other. I want you to know if you don't understand a question of mine you have the right to ask me to clarify or repeat it. You understand you have that right?
 (13) A I do understand.
 (14) Q If you don't ask, I'm going to be assuming that you understood the question and that you're answering it to

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- (1) the best of your ability. Is that fair?
 (2) A Yes.
 (3) Q Do you know a David Hicks?
 (4) A Yes, I do.
 (5) Q How long have you known David Hicks?
 (6) A I'm not sure. I don't know how long I've known him.
 (7) Q Are you able to give me a year when you met him?
 (8) A I can't give you a specific year, no.
 (9) Q Have you known him more than five years?
 (10) A No.
 (11) Q How did you meet Mr. Hicks?
 (12) A I don't remember the specific time we met.
 (13) Q When was the last time you saw Mr. Hicks?
 (14) A I believe - I am not sure - it was the first part of December.
 (15) Q Who introduced you to David Hicks?
 (16) A I'm not sure.
 (17) Q Have you ever spoken with David Hicks about the business of Hicks Broadcasting of Indiana, LLC?
 (18) A Yes.
 (19) Q You're familiar with Hicks Broadcasting of Indiana, LLC?
 (20) A What do you mean by that?
 (21) Q You know about the existence of that company?
 (22) A Yes.
 (23) Q When was it formed?

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- (1) A I don't recall when it was first formed.
 (2) Q Who are the owners of that company?
 (3) A The owners would be, of course, Mr. Hicks, myself, Sarah Dille and Alec Dille.
 (4) Q Incidentally, your father's name is John Dille, III; is that correct?
 (5) A That is correct.
 (6) Q How did you happen to go into business with Dave Hicks?
 (7) A Can you be more specific?
 (8) Q No. How did you happen to go into business with Dave Hicks?
 (9) A Okay. My father suggested to his children, the three of us, Alec, Sarah and I, that we invest in a radio station. And upon his advice, we did just that.
 (10) Q When did he make that suggestion?
 (11) A I don't remember when that happened.
 (12) Q Were you together when he made the suggestion?
 (13) A No.
 (14) Q Did he make the suggestion to you in person or by telephone or in writing? How did it come about?
 (15) A I'm not sure. I'm not sure how specifically we started talking about that.
 (16) Q Who suggested that David Hicks be part of the arrangement where you were going into business together? Let me rephrase it.

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- (1) Who suggested that David Hicks be one of the people that you go into business with?
 (2) A I'm not sure.
 (3) Q Did you discuss with Mr. Hicks what the nature of your business relationship would be?
 (4) A No.
 (5) Q I would like to direct your attention to Exhibit 10, which is there beside you. It's the operating agreement for Hicks Broadcasting of Indiana, LLC. Have you seen that before?
 (6) A No. I have seen this before.
 (7) Q The signature page?
 (8) A Yes.
 (9) Q Is that your signature on page - I guess it's numbered 7 of - near the end of the agreement?
 (10) A That is my signature, yes.
 (11) Q Did you read the whole document before you signed it?
 (12) A No.
 (13) Q Did you have the whole document in front of you when you signed it or did you just have the signature page?
 (14) A I don't remember.
 (15) Q Where were you when you signed the document?
 (16) A I'm not sure about that, either.
 (17) Q Did you seek the advice of any lawyers before you signed the document?

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- (1) A No.
 (2) Q Did you seek the advice of any accountants before you signed the document?
 (3) A No.
 (4) Q Did you rely on your father's advice in deciding whether or not to sign the document?
 (5) A Yes.
 (6) Q Was your father present when you signed the document?
 (7) A I don't remember.
 (8) Q Did anyone explain to you what was contained within that document?
 (9) A No.
 (10) Q To this day, do you know what's contained in the operating agreement of Hicks Broadcasting of Indiana, LLC?
 (11) A No.
 (12) Q Hicks Broadcasting of Indiana, LLC, purchased some assets, specifically the assets of WRBR radio station, from Booth American Company. Have you ever reviewed the document by which Hicks Broadcasting purchased those assets?
 (13) A I'm not sure.
 (14) Q I would like to show you the asset purchase agreement dated November 30th, 1993 between Booth American Company and Hicks Broadcasting. Feel free to look at it, if you

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- (1) wish. And let me ask you, have you ever seen that document before?
 (2) A I don't remember seeing this before.
 (3) Q Do you know how much Hicks Broadcasting of Indiana, LLC, paid to acquire the assets of WRBR?
 (4) A No.
 (5) Q Have you ever gone into a business transaction before without reading the terms of the documents you were signing?
 (6) A I have never been in a business transaction like this before, so I can't answer the question.
 (7) Q Do you know who negotiated the terms of this asset purchase agreement between Hicks Broadcasting Indiana, LLC, and Booth American Company?
 (8) A No.
 (9) Q Have you ever met John Booth?
 (10) A I don't know.
 (11) Q Did you meet David Hicks before you signed the operating agreement for Hicks Broadcasting of Indiana, LLC?
 (12) A I don't remember that.
 (13) Q As part of the acquisition of Hicks Broadcasting of Indiana, LLC, you had to put up some money. Do you recall that?
 (14) A Yes.
 (15) Q Where did the money come from that you invested in Hicks

Page 9

- (1) Broadcasting of Indiana, LLC?
- (2) A I borrowed it from my father.
- (3) Q Have you paid your father back?
- (4) A No.
- (5) Q Do you have any sort of promissory note or document that shows the amount that you owe your father?
- (6) A I'm not sure.
- (7) Q Who would be responsible for preparing such a document if there was going to be one?
- (8) A I don't know that, either.
- (9) Q Have you attended any annual meetings of the owners of Hicks Broadcasting of Indiana, LLC?
- (10) A No.
- (11) Q Do you receive financial statements showing the performance of Hicks Broadcasting of Indiana, LLC?
- (12) A No.
- (13) Q Do you monitor in any way the performance of Hicks Broadcasting of Indiana, LLC?
- (14) A No.
- (15) Q Do you rely on someone else to monitor Hicks Broadcasting of Indiana, LLC, on your behalf?
- (16) A I would have to say yes.
- (17) Q Who do you rely upon to monitor their performance of Hicks Broadcasting of Indiana, LLC?
- (18) A Mr. Hicks.

Page 10

- (1) Q Does Mr. Hicks report to you on the performance of Hicks Broadcasting of Indiana, LLC?
- (2) A No.
- (3) Q Do you have any method by which you are kept informed as to how your company is doing?
- (4) A I don't understand what you're asking me.
- (5) Q You're an owner in Hicks Broadcasting of Indiana, LLC.
- (6) Did you know that?
- (7) A Yes.
- (8) Q Do you monitor your investment?
- (9) A No.
- (10) Q Why not?
- (11) A I felt like I had put my money in safe hands.
- (12) Q Did you put any of your money into Hicks Broadcasting of Indiana, LLC?
- (13) A I don't understand what you mean by that.
- (14) Q The money that you invested in Hicks Broadcasting of Indiana, LLC, was provided to you by your father, correct?
- (15) A Correct.
- (16) Q And you said this was to be a loan?
- (17) A Yes.
- (18) Q And you were to repay it?
- (19) A Yes.
- (20) Q At this point, you have not repaid it; is that correct?

Page 11

- (1) A That is correct.
- (2) Q Does your father charge you any interest on the amount that he has loaned to you?
- (3) A I'm not sure.
- (4) Q Who would know that?
- (5) A I would imagine my father.
- (6) Q Other than your father telling you, you have no way of knowing at this point whether or not you're paying any interest on that loan?
- (7) A That is correct.
- (8) Q What's your educational background, starting with high school?
- (9) A I have a high school degree from Lake Forest Academy of Lake Forest, Illinois.
- (10) Q Did you pursue any education after high school?
- (11) A Yes, I did.
- (12) Q Where did you go?
- (13) A I have a - I have a Bachelor's degree in communication from DePauw University in Greencastle, Indiana.
- (14) Q When did you acquire that degree?
- (15) A I got my degree in 1990.
- (16) Q Did you pursue any other education after obtaining your Bachelor's in communications from DePauw?
- (17) A I have a professional degree in camera repair. I don't know if that's what you're looking for.

Page 12

- (1) Q Professional degree in camera repair?
- (2) A Yes.
- (3) Q Do you have any other degrees? Do you have any doctoral degrees?
- (4) A No.
- (5) Q Looking at Exhibit 17, which is a series of documents showing the amounts that you contributed as part of the escrow of Hicks Broadcasting of Indiana, LLC, is this your check?
- (6) A Yes, it is.
- (7) Q I notice that at the top it appears to say Dr. J. Flint Dille. Is that correct?
- (8) A That is correct.
- (9) Q What doctorate are you referring to there?
- (10) A When those checks were made, I was repairing cameras and I was a camera doctor. And that was a tongue in cheek check. The check itself was good, but the heading on the top was meant to be tongue in cheek. I do not have a medical degree or a Ph.D.
- (11) Q Let me rephrase it.
- (12) You did not play any role in the negotiations for the acquisition of the assets of WRBR, correct?
- (13) A Correct.
- (14) Q After Hicks Broadcasting of Indiana acquired WRBR, were you involved in any way in the operation of that radio station?

Page 13

- (1) station?
- (2) A Only on a purely out-service basis.
- (3) Q What have you done for the radio station?
- (4) A I make signs at this time and I make signs for the radio station. That would be the only connection I have.
- (5) Q How are you employed at this time?
- (6) A I am the general manager of Sign-Pro of Elkhart.
- (7) Q Who owns Sign-Pro of Elkhart?
- (8) A I'm not sure.
- (9) Q Are there other Sign-Pro franchises affiliated with Sign-Pro of Elkhart?
- (10) A Well, my answer will be no because Sign-Pro is not a franchise.
- (11) Q What is it?
- (12) A It's a licensee.
- (13) Q I know, for example, that there is a Sign-Pro of Grand Rapids.
- (14) A Yes.
- (15) Q Is there common ownership between Sign-Pro of Grand Rapids and Sign-Pro of Elkhart?
- (16) A To the best of my knowledge, yes.
- (17) Q Who is the common owner?
- (18) A I'm not sure.
- (19) Q Are there other Sign-Pro licensees that are also affiliated or at least share common ownership with

Page 14

- (1) Sign-Pro of Elkhart and Sign-Pro of Grand Rapids?
- (2) A Yes, Sign-Pro of Fort Wayne.
- (3) Q Any others?
- (4) A Not that I'm aware of.
- (5) Q Who is the general manager of Sign-Pro of Grand Rapids?
- (6) A That would be Jeffrey Hicks.
- (7) Q Who is Jeffrey Hicks?
- (8) A What do you mean by that?
- (9) Q Who is that person?
- (10) A A man who operates Sign-Pro of Grand Rapids.
- (11) Q Is he related to David Hicks?
- (12) A Yes.
- (13) Q Is he David Hicks' son?
- (14) A Yes.
- (15) Q How many employees does Sign-Pro of Elkhart have?
- (16) A Six.
- (17) Q How many employees does Sign-Pro of Grand Rapids have?
- (18) A I'm not sure.
- (19) Q Is it more than five?
- (20) A I don't know.
- (21) Q You have no idea as to the number of employees that Sign-Pro of Grand Rapids has?
- (22) A Yes.
- (23) Q Who is -

(25) A No.

Page 15

- (1) Q Who is the general manager of Sign-Pro of Fort Wayne?
 A Carla White.
 (3) Q Is Carla White related to you in any way?
 (4) A Not that I'm aware of.
 (5) Q Is Carla White related to David Hicks in any way?
 (6) A Not that I'm aware of.
 (7) Q How many employees does Sign-Pro of Fort Wayne have?
 (8) A I'm not sure.
 (9) Q Do you know who owns the license for Sign-Pro for the
 (10) Kalamazoo, Michigan, area?
 (11) A No.
 (12) Q When did you first become acquainted with Sign-Pro?
 (13) A I believe in the spring of '94.
 (14) Q How did you become acquainted with Sign-Pro?
 (15) A My father talked to me about it.
 (16) Q What did he say?
 (17) A I don't remember specifically.
 (18) Q When did you first become involved in working for
 (19) Sign-Pro?
 (20) A I believe it was August of '94.
 (21) Q Who hired you?
 (22) A I'm not sure.
 (23) Q Were you interviewed for the position?
 (24) A Yes.
 (25) Q Who interviewed you?

Page 16

- (1) A I was interviewed by more than one person.
 (2) Q Tell me the names of all the people that you can remember
 (3) interviewing you.
 (4) A Okay. Richard Rhodes, Steve Kline, Bob Watson, David
 (5) Hicks, and my father, John F. Dille, III.
 (6) Q Were there other applicants for the position, to your
 (7) knowledge?
 (8) A I don't know.
 (9) Q Who did David Hicks work for at the time he interviewed
 (10) you regarding Sign-Pro, if you know?
 (11) A I have no idea.
 (12) Q Did you travel to Missoula, Montana to learn more about
 (13) the Sign-Pro franchise?
 (14) A Yes.
 (15) Q Or license. When did you do that?
 (16) A I believe it was in August of '94.
 (17) Q Who else went along on that trip?
 (18) A Jeffrey Hicks also went on that trip. And Rachael
 (19) Parmater, P-e-r-m-a-t-e-r, went on that trip.
 (20) Q Who did Rachael Parmater work for at that time?
 (21) A She worked for me.
 (22) Q For you?
 (23) A Yes.
 (24) Q Is she an employee of Sign-Pro of Elkhart?
 (25) A At that time she was an employee of Flint's Photo

Page 17

- (1) Factory.
 (2) Q Who was Jeff Hicks employed by at that time, if you know?
 (3) A I don't know.
 (4) Q Did David Hicks go along on that trip?
 (5) A I think he was there, but it was a separate group. But
 (6) I'm not sure if he was there or not.
 (7) Q Did David Hicks ever mention to you that he was involved
 (8) with a company or was an owner of a company known as
 (9) Crystal Radio Group?
 (10) A Not that I recall.
 (11) Q Did you participate in the selection of any of the
 (12) employees of Hicks Broadcasting of Indiana, LLC?
 (13) A No.
 (14) Q Do you have any input into the programming for Hicks
 (15) Broadcasting of Indiana, LLC?
 (16) A No.
 (17) Q Have you ever been to WRBR, the radio station?
 (18) A Yes.
 (19) Q How many times have you been to WRBR?
 (20) A I don't know how many times I've been there.
 (21) Q How often do you go?
 (22) A I would say about once a month now.
 (23) Q What's the purpose of your going to WRBR?
 (24) A To monitor their sign needs.

(25) Q When you go to WRBR to monitor their sign needs, who do

Page 18

- (1) you meet with?
 (2) A Depends on the trip.
 (3) Q How do you monitor the sign needs?
 (4) A They usually call me and say, "I need a sign."
 (5) Q Who calls?
 (6) A Depends on the sign.
 (7) Q Can you explain that for me? Are there different people
 (8) to call for different types of signs?
 (9) A Yes.
 (10) Q Can you describe in different types of signs and tell me
 (11) who would be responsible for calling for each one?
 (12) A Yes, I could do that. The sales department had certain
 (13) promotions, and when they have a promotion that they need
 (14) signs for, typically it would be Brad Williams. If there
 (15) is a promotion going on that has to do with the
 (16) programming, typically it would be Phil.
 (17) Q When you say Phil, do you mean Phil Britten?
 (18) A Yes, I do. And sometimes Steve Kline will call and need
 (19) a sign for just something.
 (20) Q Have you discussed with your father the fact that you
 (21) were going to give this deposition?
 (22) A Yes.
 (23) Q When?
 (24) A I don't recall.
 (25) Q More than a week ago?

Page 19

- (1) A I think so.
 (2) Q More than a month ago?
 (3) A I don't remember.
 (4) Q What did your father tell you about the deposition?
 (5) A That there was just going to be a deposition.
 (6) Q Did he tell you the nature of the dispute that led to
 (7) this deposition?
 (8) A No.
 (9) Q Have you discussed this lawsuit or your deposition with
 (10) David Hicks?
 (11) A No.
 (12) Q I think you had mentioned earlier that the last time you
 (13) spoke to Mr. Hicks was around the beginning of December.
 (14) Did I hear that correctly?
 (15) A I think that's true.
 (16) Q What did you speak with him about at that time?
 (17) A The budgets for Sign-Pro.
 (18) Q Anything else?
 (19) A Not that I recall.
 (20) Q Have you ever discussed this lawsuit with Mr. Hicks?
 (21) A No. But you already asked me that.
 (22) Q Have you ever discussed with Mr. Hicks any dispute that
 (23) he might have with Crystal Radio Group?
 (24) A No.
 (25) Q Directing your attention to what was previously marked as

Page 20

- (1) Exhibit 17, and specifically to the check numbered 539 at
 (2) the bottom of the - I guess it's the fourth page of the
 (3) exhibit. Who typed in the words Honigman, Miller,
 (4) Schwartz & Cohn?
 (5) A I don't know.
 (6) Q Did you do it?
 (7) A No.
 (8) Q Was it done in your presence?
 (9) A No.
 (10) Q Who typed in the amount of the check, \$8,166?
 (11) A I don't know.
 (12) Q Was that done in your presence?
 (13) A No.
 (14) Q Did you supply a blank check to be filled out and used in
 (15) this transaction?
 (16) A Yes.
 (17) Q Who did you supply the check to?
 (18) A What do you mean?
 (19) Q Well, presumably you gave it to someone who then had it
 (20) typed in and completed; am I right?
 (21) A Yes.
 (22) Q Who did you give the check to?
 (23) A Bob Watson.
 (24) Q Have you been employed at any time by Hicks Broadcasting

(25) of Indiana, LLC?

Page 21

- (1) A No.
- (2) Q Directing your attention to Exhibit 40, on the first page
- (3) is a check in the amount of \$105,000 from Pathfinder
- (4) Communications to Booth American Company. Have you seen
- (5) that check before?
- (6) A I don't think so.
- (7) Q The second page of Exhibit 40 consists of three checks.
- (8) The middle check is on an account of John F. Dille. Is
- (9) that your account?
- (10) A Yes.
- (11) Q And is that your signature on the check?
- (12) A Yes.
- (13) Q That check is written on March 24, 1995; is that right?
- (14) A Yes.
- (15) Q In the amount of \$35,000?
- (16) A Yes.
- (17) Q Who supplied the funds that you deposited in your
- (18) checking account to cover that check?
- (19) A That would be my father.
- (20) Q How did he do that? Did he give you a check payable to
- (21) you in the amount of \$35,000?
- (22) A Yes.
- (23) Q And did you then deposit that check into your checking
- (24) account to cover a check that you've written here?
- (25) A Yes.

Page 22

- (1) Q Has your father supplied you with any other money to be
- (2) invested in Hicks Broadcasting of Indiana, LLC, besides
- (3) the \$8,100 check we looked at earlier and then this
- (4) check?
- (5) A I'm not sure.
- (6) Q Who would know that?
- (7) A My father.
- (8) Q What about Bob Watson?
- (9) A He might also know.
- (10) Q Has any profit of Hicks Broadcasting of Indiana, LLC,
- (11) been distributed to you?
- (12) A I don't know.
- (13) Q Directing your attention to Exhibit 42. First page is a
- (14) memo to you from Bob Watson indicating, "Enclosed is a
- (15) Hicks Broadcasting of Indiana, LLC, check made payable to
- (16) you in the amount of \$42,999.99, representing repayment
- (17) of your loans to Hicks made in 1994 and 1995. Did you
- (18) receive that check?
- (19) A Yes.
- (20) Q What did you do with it?
- (21) A I deposited it in my bank account.
- (22) Q And what did you do with the funds at that point?
- (23) A I haven't done anything with the funds.
- (24) Q You have not returned them to your father?
- (25) A No.

Page 23

- (1) Q They remain in your checking account at this time?
- (2) A Correct.
- (3) Q Do you have any understanding or agreement as to what's
- (4) supposed to happen to those funds?
- (5) A Not at this time.
- (6) Q Were you surprised to learn that you were going to be
- (7) receiving a check in the amount of almost \$43,000?
- (8) A No.
- (9) Q Are you expecting to repay the \$42,999.99 to your father?
- (10) A Yes.
- (11) Q Why haven't you done that yet?
- (12) A He has not instructed me to do so.
- (13) Q You're awaiting his direction?
- (14) A Yes.
- (15) Q Is he charging you any interest on the loan?
- (16) A I don't know.
- (17) Q To your knowledge, has your brother Alec been involved in
- (18) any way in the operation of Hicks Broadcasting of
- (19) Indiana, LLC?
- (20) A To my knowledge, no, he has not been involved.
- (21) Q Where does Alec live?
- (22) A Alec lives in Indianapolis.
- (23) Q What does he do in Indianapolis, to your knowledge?
- (24) A At this time, to my knowledge, he's a full-time student

(25) with a part-time job.

Page 24

- (1) Q How long has he been a full-time student in Indianapolis?
- (2) A I believe starting this month.
- (3) Q Where was he living prior to this month?
- (4) A He was living in Indianapolis.
- (5) Q Doing what?
- (6) A He was working at Sign-Pro of Indianapolis.
- (7) Q Who owns Sign-Pro of Indianapolis?
- (8) A I believe Susquehanna.
- (9) Q Is it affiliated in any way with Federated Media?
- (10) A Not that I'm aware of.
- (11) Q Does it share any common ownership with Sign-Pro of
- (12) Elkhart or Sign-Pro of Grand Rapids or Sign-Pro of Fort
- (13) Wayne?
- (14) A Not that I'm aware of.
- (15) MR. LUBBEN: That's all the questions I have.
- (16) MR. BECHER: No questions. We'll read and sign
- (17) the transcript.
- (18) (Deposition concluded at 2:45 p.m.)

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- (1)
- (2) I hereby certify that the within and foregoing
- (3) is a true and correct transcript of the testimony as
- (4) given by me and corrections, if any, as made on the
- (5) attached correction page.
- (6) DATED this _____ day of _____
- (7) 1996.
- (8) _____
- (9) John F. Dille, IV
- (10)

Page 26

- (1) CERTIFICATE
- (2) State of Michigan)
- (2)) ss
- (3) County of Kalamazoo)
- (5) I, Jennifer N. Van Alstine, Notary Public
- (6) in and for Kalamazoo County, Michigan, do hereby certify
- (7) that the foregoing deposition of JOHN F. DILLE, IV, was
- (8) taken before me at the time and place hereinbefore set
- (9) forth, and that said witness was duly sworn by me to tell
- (10) the truth and nothing but the truth, and thereupon was
- (11) examined and testified as in the foregoing deposition
- (12) appears:
- (13) That this deposition was taken in shorthand and
- (14) thereafter transcribed by me, and that it is a true and
- (15) correct transcript of my original shorthand notes.
- (16) IN WITNESS WHEREOF, I have hereunto set my hand
- (17) and seal this 10th day of February, 1996.
- (19) _____
- (19) Notary Public in and for
- (20) Kalamazoo County, Michigan
- (21) My commission expires May 19, 1998.

ATTACHMENT I

0001

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF KALAMAZOO

DAVID L. HICKS,

Plaintiff,

-vs-

File No.: B 94-3803-ME

CRYSTAL RADIO GROUP, INC.,

a Michigan corporation,

EDWARD J. SACKLEY, III,

individually and as Trustee of

the EDWARD J. SACKLEY, II,

RICHARD C. DOERING,

JOHN M. STRANDIN,

JANICE J. SACKLEY, individually

and as Trustee of the

Janice J. Sackley Trust,

RICHARD R. KARAGOZA,

ELISE R. KARAGOZA and

EDWARD J. SACKLEY, Trustee of

the Edward J. Sackley Trust,

Defendants.

Deposition of SARAH DILLE, taken under the provisions of the Michigan COURT REPORTERS Before Jennifer M. Van Alstine, RPR-CH (CER 0028), Certified Shorthand Reporter and Notary Public, at 301 South Main Street, Suite 308, Elkhart, Indiana, on Tuesday, January 30th, 1996, commencing at or about 1:30 p.m., pursuant to Notice.

VAN ALSTINE REPORTING

Certified Shorthand Reporters
233 West Michigan Avenue, Suite B
Kalamazoo, Michigan 49007
1-800-635-1383 or 616-844-4716
FAX - 616-844-6459

0002

APPEARANCES:

No appearance for Plaintiff

MR. CRAIG M. LEBBEN

Attorney for Defendants

425 West Michigan Avenue

Kalamazoo, Michigan 49007

MR. PAUL E. BECHER

Attorney at Law

Suite 308

301 South Main Street

Elkhart, Indiana 46516

ALSO PRESENT:

Mr. Ed Sackley

DECK

WITNESS:

SARAH DILLE

Direct Examination by Mr. Lebben

PAGE:

3

EXHIBITS

None marked

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Page 3

- (1) PROCEEDINGS
- (2) SARAH DILLE
- (3) being first duly sworn by the reporter, was examined and
- (4) testified under oath as follows:
- (5) DIRECT EXAMINATION
- (6) BY MR. LUBBEN:
- (7) Q Would you state your name for the record.
- (8) A Sarah F. Dille.
- (9) MR. LUBBEN: The record should reflect that
- (10) this is the deposition of Sarah Dille and it's being
- (11) taken in the case of David Hicks versus Crystal Radio
- (12) Group. The deposition is being taken pursuant to Notice
- (13) and for all purposes permitted under applicable Michigan
- (14) statutes and Court Rules.
- (15) Q Miss Dille, my name is Craig Lubben. We met briefly. I
- (16) represent the defendants in this case, the Crystal Radio
- (17) Group and a number of individual defendants. You
- (18) understand that?
- (19) A Yes.
- (20) Q Have you ever been deposed before?
- (21) A Yes.
- (22) Q This is a question and answer format. And we have a
- (23) court reporter here who will make a transcript of our
- (24) discussion here today. Because we will have a transcript
- (25) that can be used later on in court, it's important that

Page 4

- (1) we be clear with each other. So I want you to know that
- (2) you have the right to ask me to clarify or repeat a
- (3) question if you don't understand it. You understand you
- (4) have that right?
- (5) A Yes.
- (6) Q If you don't do that, I'm going to be assuming that you
- (7) understood the question and that you're answering it to
- (8) the best of your ability. Is that fair?
- (9) A Yes.
- (10) Q Are you the daughter of John Dille, III?
- (11) A Yes, I am.
- (12) Q Do you know David Hicks?
- (13) A Yes, I do.
- (14) Q How long have you known David Hicks?
- (15) A I am not sure.
- (16) Q Well, if you don't know when, how did you first meet him?
- (17) A I'm not even sure.
- (18) Q Can you give me a year in which you first met him?
- (19) A No.
- (20) Q Is it more than a year ago?
- (21) A Yes.
- (22) Q More than five years ago?
- (23) A Not that I recall. I would have to say I don't know.
- (24) Q When was the last time you spoke with David Hicks?
- (25) A I don't know.

Page 5

- (1) Q How often have you seen David Hicks since the first time
- (2) that you met him?
- (3) A Sporadically. It sort of depends.
- (4) Q More than once?
- (5) A Yes.
- (6) Q More than five times?
- (7) A Yes.
- (8) Q More than ten times?
- (9) A Yes.
- (10) Q In what context do you have contact with Mr. Hicks?
- (11) A I'm not sure I know what you mean.
- (12) Q Do you speak with him on the phone?
- (13) A I have.
- (14) Q Do you speak with him in person?
- (15) A Yes.
- (16) Q When you speak with him in person, where have you been?
- (17) A I've spoken with him at WRBR. I have spoken with him at
- (18) Truth Publishing. I've spoken with him at WCUZ Radio.
- (19) Q How are you employed?
- (20) A I am employed by WRBR Radio.
- (21) Q In what capacity?
- (22) A I am an account executive.
- (23) Q What are your responsibilities?
- (24) A To sell.
- (25) Q How long have you been an account executive at WRBR?

Page 6

- (1) A Since June 20th of this year -- '95, I'm sorry. I may be
- (2) off a day or two.
- (3) Q Were you employed prior to June 20th of 1995?
- (4) A Yes.
- (5) Q In what capacity?
- (6) A I'm not sure I know what you mean. My whole life?
- (7) Q Well, I'm wondering about the job you held before you
- (8) became the account executive before WRBR.
- (9) A Just prior?
- (10) Q Yes.
- (11) A I was working for Federated Media.
- (12) Q What did you do for Federated Media?
- (13) A I was a temporary secretary for John Dille, III.
- (14) Q How long did you work as a temporary secretary for John
- (15) Dille, III?
- (16) A I'm not exactly sure.
- (17) Q I would like to talk to you a little bit about Hicks
- (18) Broadcasting of Indiana, LLC. Are you familiar with that
- (19) company?
- (20) A Yes.
- (21) Q I'm going to show you a document that was previously
- (22) marked as Exhibit 10, something called the operating
- (23) agreement for Hicks Broadcasting of Indiana, LLC. Have
- (24) you seen that document before?
- (25) A Yes.

Page 7

- (1) Q When did you first see it?
- (2) A I am not sure.
- (3) Q What is your role with respect to Hicks Broadcasting of
- (4) Indiana, LLC?
- (5) A I am a shareholder.
- (6) Q How did it come about that you became a shareholder in
- (7) Hicks Broadcasting of Indiana, LLC?
- (8) A I am not sure I understand the question.
- (9) Q What's the business of Hicks Broadcasting of Indiana,
- (10) LLC?
- (11) A Radio.
- (12) Q At some point did somebody come to you and say, "Hey,
- (13) you interested in becoming part of a company that's going
- (14) to own a radio station?"
- (15) A Not that I recall.
- (16) Q I'm trying to figure out how you got involved with Hicks
- (17) Broadcasting of Indiana, LLC. That's really what I'm
- (18) going for.
- (19) A Okay. It was recommended to me that this would be a
- (20) profitable investment.
- (21) Q Who recommended it to you?
- (22) A John Dille, III.
- (23) Q Your father?
- (24) A Yes.
- (25) Q When did he recommend it to you?

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- (1) A I could not answer that. I don't know.
- (2) Q Did he recommend it orally or in writing?
- (3) A Orally.
- (4) Q Did you know David Hicks at the time that your father
- (5) recommended this opportunity to you?
- (6) A I'm not sure.
- (7) Q On or around November 30th of 1993, David Hicks on behalf
- (8) of Hicks Broadcasting, which had yet to be formed,
- (9) entered into an agreement to purchase the assets of
- (10) WRBR. Did you participate in the negotiations for the
- (11) purchase of those assets?
- (12) A No.
- (13) Q Have you seen the asset purchase agreement --
- (14) A No.
- (15) Q (Continuing) -- before?
- (16) A (Shaking negatively.)
- (17) Q This is the first time you have seen that?
- (18) A Yes.
- (19) Q Your father told you that this would be a good investment
- (20) to participate in, correct?
- (21) A Yes.
- (22) Q What did you do next in order to participate in --
- (23) A I don't really remember.
- (24) Q Was it basically showing up to sign documents?
- (25) A I don't recall.

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- (1) Q Tell me what role you've had in Hicks Broadcasting of Indiana, LLC.
- (2) A I am a shareholder and an investor. Other than that -
- (3) Q How do you know you're a shareholder or investor?
- (4) A Because - I don't know.
- (5) Q Did you ever go to something called a closing, where you signed documents to become an owner of Hicks Broadcasting of Indiana, LLC?
- (6) A No.
- (7) Q Did you ever sign anything, to your knowledge, that made you an owner of Hicks Broadcasting of Indiana, LLC?
- (8) A I'm not sure.
- (9) Q Did you basically sign what your dad suggested to you that you ought to sign?
- (10) A Yes.
- (11) Q As part of the purchase of Hicks Broadcasting of Indiana, LLC, you were required to make a deposit of \$8,166.67.
- (12) Do you remember that?
- (13) A Yes.
- (14) Q Incidentally, I notice on the check the name was Sarah Dunkel. Is that the name that you used from a prior marriage?
- (15) A Yes.
- (16) Q Where did you get the funds to write the check that was your portion of the escrow for the purchase of WRBR?

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- (1) A From my father.
- (2) Q Did you ever pay him back for that money?
- (3) A Yes.
- (4) Q When?
- (5) A It may be in the process now. I'm not sure.
- (6) Q Under the terms for the purchase of WRBR, it was necessary to make six monthly payments of \$5,000, that is, Hicks Broadcasting had to make those payments. Did you make contributions to the company so that it could make its payments?
- (7) A Yes.
- (8) Q Where did you get the money that you used to make your contributions to Hicks Broadcasting -
- (9) A From my father.
- (10) Q Would he write you a check?
- (11) A No.
- (12) Q How did he transfer the funds to you?
- (13) A I believe it came from the company, Federated Media. I don't really remember.
- (14) Q Going back to Exhibit 17, the check that you wrote in the amount of \$8,166.67 - at least that you signed - did you actually prepare this check, or was it prepared for you?
- (15) A I'm not sure I understand what you mean.
- (16) Q You signed it, correct?
- (17) A Yes.

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- (1) Q But there is a name of a payee written in there, or typed in there, and there is an amount typed in. I'm wondering, did you type in the name and the amount?
- (2) A No.
- (3) Q Was that done for you?
- (4) A Yes.
- (5) Q Who did that?
- (6) A I don't know.
- (7) Q Was that done through your father's company's accountants?
- (8) A I don't know.
- (9) Q How did the company get your check so that it could forward it on to Booth American Company?
- (10) A I'm not sure I understand what you mean.
- (11) Q Did you mail the check to them or did they keep copies of the checks on file? Did they have blank checks to have access to? How did they get the check?
- (12) A I hand-delivered one.
- (13) Q Are you able to acquire David Hicks' interest in Hicks Broadcasting of Indiana, LLC?
- (14) A I'm not sure I understand what you mean.
- (15) Q Do you know what an option is?
- (16) A Yes.
- (17) Q Do you have an option to purchase Mr. Hicks' interest in Hicks Broadcasting of Indiana, LLC?

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- (1) A I believe so, yes.
- (2) Q What are the terms of that option, as you understand it?
- (3) A I don't know.
- (4) Q When your dad suggested to you that this might be a good investment for you, did he say why he thought it would be a good investment?
- (5) A I don't recall.
- (6) Q Did he describe the investment to you?
- (7) A Yes.
- (8) Q How did he describe it?
- (9) A I don't recall.
- (10) Q You don't remember anything that he said?
- (11) A It's very vague.
- (12) Q Under the asset purchase agreement, there was a payment in the amount of \$105,000 due on the first anniversary of the closing of the transaction for the purchase of the assets of WRBR. Did you provide a check in the amount of \$35,000, payable to Hicks Broadcasting, as your contribution?
- (13) A Yes.
- (14) Q Where did you get the \$35,000 that you used to make your contribution to Hicks Broadcasting?
- (15) A From my father.
- (16) Q Have you paid him back for that money?
- (17) A I believe it's in the process.

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- (1) Q Who told you it's in the process?
- (2) A My father.
- (3) Q What did your father tell you about your deposition and this case?
- (4) A To tell the truth and what I know.
- (5) Q Did he tell you what the dispute was about?
- (6) A Vaguely.
- (7) Q What did he tell you?
- (8) A You know, I guess, after I think about it for a second, I'm not sure if it was him who told me about it or Mr. Becher.
- (9) Q Did you meet with Mr. Becher to prepare for your deposition today?
- (10) A Yes.
- (11) Q Did you meet with anyone else to prepare for your deposition today?
- (12) A No.
- (13) Q Have you talked about this case with David Hicks?
- (14) A No.
- (15) Q Have you played any role in the operation of Hicks Broadcasting of Indiana, LLC?
- (16) A No.
- (17) Q Did you participate in any way in the hiring of any of its employees?
- (18) A Only myself.

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- (1) Q Incidentally, who hired you?
- (2) A Brad Williams, general sales manager.
- (3) Q To your knowledge, have either of your brothers played any role in the operation of Hicks Broadcasting of Indiana, LLC?
- (4) A I don't know.
- (5) Q Do you know what a capital contribution is?
- (6) A Yes.
- (7) Q Was the \$35,000 that you paid into Hicks Broadcasting of Indiana a capital contribution?
- (8) A I don't know.
- (9) Q Was it a loan?
- (10) A What do you mean by a loan?
- (11) Q A loan from you to Hicks Broadcasting of Indiana, LLC.
- (12) A I'm not positive.
- (13) Q Who would know?
- (14) A I don't know.
- (15) Q Do you rely pretty much on your father for advice as to what to do in this transaction?
- (16) A Yes.
- (17) Q And it's kind of up to him to tell you whether this is supposed to be a loan or paid in capital -
- (18) MR. BECHER: Well -
- (19) Q (Continuing) - or whatever else it's supposed to be?
- (20) MR. BECHER: Well, first, have you ever

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- (1) discussed it with him?
- (2) Q Well, I don't know that, that's right. My question is,
- (3) do you rely on him to tell you how this is supposed to be
- (4) characterized?
- (5) A "This" being this particular transaction?
- (6) Q Right, the contribution of the \$35,000 that you made to
- (7) Hicks Broadcasting.
- (8) A Yes.
- (9) Q Does Brad Williams know that you're an owner of WRBR?
- (10) A I don't know.
- (11) Q Do your fellow employees know that you're an owner of
- (12) WRBR?
- (13) A I don't know.
- (14) Q Does it impact your employment in any way?
- (15) A Impact it how?
- (16) Q Well, by being the owner while at the same time being an
- (17) employee there?
- (18) A I have not noticed anything.
- (19) Q Did you know you were an owner of WRBR at the time that
- (20) you were hired?
- (21) A Yes.
- (22) Q Are you familiar with a business called Sign-Pro?
- (23) A Yes.
- (24) Q Do you participate in any way in the operation of
- (25) Sign-Pro?

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- (1) A No.
- (2) Q What do you know about Sign-Pro?
- (3) A Quite a bit.
- (4) Q Tell me about it. What is it?
- (5) A It's a sign business that has a wide variety of different
- (6) ways of advertising a location specifically, or a
- (7) business. I work with Sign-Pro on a referral basis, so
- (8) I'm familiar with the employees.
- (9) Q Explain that to me. How do you work with them on a
- (10) referral basis?
- (11) A I socially know one of the sales account execs, and we
- (12) will sometimes exchange contacts.
- (13) Q Do you actually sell on behalf of Sign-Pro?
- (14) A No.
- (15) Q Do you know Jeff Hicks?
- (16) A Yes.
- (17) Q How long have you known Jeff Hicks?
- (18) A I'm not sure.
- (19) Q How do you know Jeff Hicks?
- (20) A I don't know.
- (21) Q Who is he?
- (22) A He's the general manager of Sign-Pro, Grand Rapids.
- (23) Q How many Sign-Pro franchisees are owned by Pathfinder
- (24) Communications or Federated Media, to your knowledge?
- (25) A I don't know.

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- (1) Q Is there a Sign-Pro for the Kalamazoo area?
- (2) A I don't know.
- (3) Q Do you have any input into the programming for WRBR?
- (4) A Can you be more specific?
- (5) Q Sure. Do you have anything to say about what the station
- (6) plays?
- (7) A No.
- (8) Q Or about the news programs it puts on?
- (9) A Well, I sell.
- (10) Q Okay.
- (11) A So I would like to have some input as to what goes on the
- (12) air commercially, but, no.
- (13) Q Do you?
- (14) A Well, sure.
- (15) Q How? First I asked if you had. I thought you said no.
- (16) You said you would like to because you sell. So I'm not
- (17) clear.
- (18) A I'm being humorous. I sell advertising.
- (19) Q Okay.
- (20) A So I would like to have input on what plays. I mean, I
- (21) would like to hear all of my clients on the air. So
- (22) that's my input. Other than that, I have none.
- (23) Q What about the public service announcements that get made
- (24) on the station, do you have any input into those?
- (25) A No.

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- (1) Q Has Hicks Broadcasting of Indiana, LLC held any annual
- (2) meetings of the owners?
- (3) A I don't know.
- (4) Q Have you participated or attended any annual meetings of
- (5) the owners?
- (6) A No.
- (7) Q Have you attended any meetings of the owners, whether
- (8) annual or not, for Hicks Broadcasting of Indiana, LLC?
- (9) A Specifically for Hicks Broadcasting?
- (10) Q Right.
- (11) A Is that what you're asking me?
- (12) Q Correct. Have you attended any meetings of the owners of
- (13) Hicks Broadcasting of Indiana, LLC?
- (14) A Do you mean where everyone is present?
- (15) Q Right.
- (16) A No.
- (17) Q Have you attended any meetings of the owners of Hicks
- (18) Broadcasting of Indiana, LLC, where less than all the
- (19) owners were present?
- (20) A Not that I recall.
- (21) Q Is there a business plan for Hicks Broadcasting of
- (22) Indiana, LLC?
- (23) A I don't know. I hope so.
- (24) Q Have you ever reviewed a business plan for Hicks
- (25) Broadcasting of Indiana, LLC?

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- (1) A No.
- (2) Q Do you receive financial reports on the performance of
- (3) Hicks Broadcasting of Indiana, LLC?
- (4) A No.
- (5) Q Have you ever contributed any money to Hicks Broadcasting
- (6) of Indiana, LLC, that did not come from your father?
- (7) A Not that I recall.
- (8) Q If Hicks Broadcasting of Indiana, LLC, generates a
- (9) profit, does that get paid out to you? Does a portion
- (10) get paid out to you?
- (11) A I don't know.
- (12) Q Have you discussed with your father who will pay the
- (13) taxes if you have some income --
- (14) A No.
- (15) Q (Continuing) -- that's attributable to Hicks Broadcasting
- (16) of Indiana, LLC?
- (17) A No.
- (18) Q Do you have any understanding at this time as to who will
- (19) pay the taxes if there is income attributable to you for
- (20) from Hicks Broadcasting of Indiana, LLC?
- (21) A No.
- (22) MR. LUBBEN: That's all I have. Thank you.
- (23) THE WITNESS: Okay.
- (24) MR. BECHER: I have no questions. We'll read
- (25) and sign the transcript.

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- (1) (Deposition concluded at 2:01 p.m.)
- (2)
- (3)
- (4) I hereby certify that the within and foregoing
- (5) is a true and correct transcript of the testimony as
- (6) given by me and corrections, if any, as made on the
- (7) attached correction page.
- (8) DATED this _____ day of _____
- (9) 1996.
- (10) _____
- (11) Sarah Dille
- (12)

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- (1) CERTIFICATE
- (2) State of Michigan)
- (2)) ss
- (3) County of Kalamazoo)
- (5) I, Jennifer N. Van Alstine, Notary Public
- (6) in and for Kalamazoo County, Michigan, do hereby certify
- (7) that the foregoing deposition of SARAH DILLE, was taken
- (8) before me at the time and place hereinbefore set forth,
- (9) and that said witness was duly sworn by me to tell the
- (10) truth and nothing but the truth, and thereupon was
- (11) examined and testified as in the foregoing deposition
- (12) appears:

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- (13) That this deposition was taken in shorthand and
- (14) thereafter transcribed by me, and that it is a true and
- (15) correct transcript of my original shorthand notes.
- (16) IN WITNESS WHEREOF, I have hereunto set my hand
- (17) and seal this 10th day of February, 1996.
- (18) _____
- (19) Notary Public in and for
- (20) Kalamazoo County, Michigan
- (21) My commission expires May 19, 1998.

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ATTACHMENT M

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STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF KALAMAZOO

DAVID L. HICES,)
Plaintiff,)
-vs-) File No.: E 94-3603-ME
CRYSTAL RADIO GROUP, INC.,)
a Michigan corporation,)
EDWARD J. SACKLEY, III,)
individually and as Trustee of)
the EDWARD J. SACKLEY, II,)
RICHARD C. DOERING,)
JOHN N. STRANDIN,)
JANICE J. SACKLEY, individually)
and as Trustee of the)
Janice J. Sackley Trust,)
RICHARD R. ZARAGOZA,)
ELISE R. ZARAGOZA and)
EDWARD J. SACKLEY, Trustee of)
the Edward J. Sackley Trust,)
Defendants.)

Deposition of STEVE KLINE, taken under the provisions of
the Michigan Court Rules before Jennifer M. Van Alstine,
RPR-CM (CSR 0028), Certified Shorthand Reporter and
Notary Public, at 301 South Main Street, Suite 306,
Elkhart, Indiana, on Tuesday, January 30th, 1996,
commencing at or about 12:01 p.m., pursuant to Notice.

VAN ALSTINE REPORTING
Certified Shorthand Reporters
232 West Michigan Avenue, Suite B
Kalamazoo, Michigan 49007
1-800-825-1233 or 616-344-4710
FAX - 616-344-6459

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APPEARANCES:
No appearance for Plaintiff
MR. CRAIG H. LUBBEN
Attorney for Defendants
425 West Michigan Avenue
Kalamazoo, Michigan 49007
MR. PAUL E. BECKER
Attorney at Law
Suite 306
201 South Main Street
Elkhart, Indiana 46516
ALSO PRESENT:
Mr. Ed Sackley

INDEX

WITNESS:	PAGE:
STEVE KLINE	
Direct Examination by Mr. Lubben	3

EXHIBITS

None marked

Page 3

(1) PROCEEDINGS

(2) MR. LUBBEN: The record should reflect that
(3) this is the deposition of Steve Kline. It's being taken
(4) in the case of David Hicks' versus Crystal Radio Group
(5) and other defendants. The deposition is being taken
(6) pursuant to Notice for all purposes permitted under
(7) applicable Michigan statutes and Court Rules.

(8) STEVE KLINE

(9) being first duly sworn by the reporter, was examined and
(10) testified under oath as follows:

(11) DIRECT EXAMINATION

(12) BY MR. LUBBEN:

(13) Q Mr. Kline, my name is Craig Lubben and I represent the
(14) defendants, Crystal Radio Group and a number of
(15) individual defendants in this case. Have you ever had
(16) your deposition taken before?

(17) A One other time, yes.

(18) Q As you know, this is a question and answer format. It's
(19) an opportunity for me to learn what you might know that
(20) might relate to our case. We've got a court reporter
(21) here preparing a transcript. Do you understand that?

(22) A Yes.

(23) Q Because she's going to prepare that transcript and we can
(24) use it later on in court, it's important that we be clear
(25) with each other. Do you understand that?

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(1) A I do.

(2) Q If at any time you do not understand a question of mine,
(3) you have the right to ask me to clarify it or repeat it,
(4) and I'll be glad to do so. Do you understand you have
(5) that right?

(6) A I do.

(7) Q If you don't do that, I'm going to be assuming that you
(8) understood the question and that you're answering it to
(9) the best of your ability. Is that fair?

(10) A Yes, I understand.

(11) Q A little housekeeping detail, but sometimes in everyday
(12) life we'll nod our head or say uh-huh or huh-uh.

(13) Unfortunately, that won't show up in the record. So if

(14) you do that, I might say, "Is that a yes or is that a
(15) no?" It's not to be rude; it's just to be sure we have
(16) the answer on the record. Do you understand?

(17) A I understand.

(18) Q Mr. Kline, how are you employed?

(19) A I'm general manager of WBYT and WRBR radio.

(20) Q What is WBYT?

(21) A That is a frequency 100.7, country radio format.

(22) Q It's a radio station?

(23) A That's correct.

(24) Q And where does it broadcast from?

(25) A 237 Edison Street in Mishawaka.

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(1) Q And you said you're also the general manager of WRBR?

(2) A Correct.

(3) Q And where is that station located?

(4) A The same location.

(5) Q How long have you been the general manager for WRBR?

(6) A Since September of 1993.

(7) Q And how long have you been the general manager for
WBYT?

(8) A At the same time.

(9) Q How were you employed before you became the general
(10) manager at WRBR and WBYT?

(11) A I was agency sales manager of a radio station in Sidney,
(12) Australia for the two years prior to that.

(13) Q Had you worked for Pathfinder Communications before you
(14) went to Sidney, Australia?

(15) A I did, from 1980 to 1987.

(16) Q In what capacity?

(17) A I was general manager of WWEZ FM Radio in Cincinnati.

(18) Q When you worked for WWEZ FM in Cincinnati, Ohio, who
was

(19) your direct supervisor?

(20) A Phil McDonnell, who was general manager of WCKY AM in
(21) Cincinnati.

(22) Q Do you know John Dille, III?

(23) A Yes, I do.

(24) Q How long have you known Mr. Dille?

(25) A Since 1975.

Page 6

(1) Q How did you come to know him?

(2) A In 1975 I was working for WCKY in Cincinnati. And his
(3) father and he were in the process of buying that radio
(4) station in Cincinnati, had not finalized it. And there
(5) was a long period of time between application and
(6) finalizing it. Management of those stations were invited
(7) to Elkhart to meet the impending buyers. It was a
(8) brief - you know, one day affair. And I met Mr. Dille
(9) and his father at that time, 1975.

(10) Q Do you know David Hicks?

(11) A Yes, I do.

(12) Q When did you come to know Mr. Hicks?

(13) A 1994. I don't remember the month of 1994. It would have
(14) been sometime in the summer of '94.

(15) Q How did you come to know David Hicks?

(16) A At the time I was manager of the two radio stations in
(17) South Bend, and we were going to take on a new venture
(18) with a franchise vinyl sign company. And David Hicks was
(19) going to - I don't know his involvement, but I know that
(20) he was involved in that sign company. And that's when I
(21) met him for the first time.

(22) Q Is this on a trip to Missoula, Montana?

(23) A No. I was not on - I did go to Missoula, Montana, but
(24) it was not on that trip. We did not make the same trip.

(25) I went at a later time.

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(1) Q Who introduced you to David Hicks?

(2) A I don't remember.

(3) Q What further involvement did you have with Mr. Hicks
(4) after you met him in connection with this franchise vinyl
(5) sign activity?

(6) A I think we had an immediate like for each other, if
(7) that's the word, because of our length of time in the
(8) radio business. And, I'm sorry, would you repeat the
(9) question?

(10) MR. LUBBEN: Actually, why don't you read it
(11) back.

(12) (Last question read back by the court
(13) reporter.)

(14) A We shared our thoughts about radio at that time, war
(15) stories, things that have happened in the radio business,
(16) because we both have been in it for a long time.

(17) Q Who hired you as general manager at WRBR?

(18) A David Hicks.

(19) Q I'm wondering if we might have some problem with our
(20) chronology here. You indicated that you began as the
(21) general manager in September of '93; is that correct?

(22) A That's correct.

(23) Q And we know that Mr. Hicks acquired WRBR in around
March

(24) or April of 1994, actually entered into the purchase

(25) agreement in November of '93, and it was closed in March

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(1) of 1994. You've indicated you were hired by him before
(2) he actually owned the station, and I'm wondering if that
(3) chronology - if maybe there is a correction there.

(4) A The correction, I guess, would be confirmed by him as the
(5) general manager. I was the general manager of the radio
(6) station prior to his involvement in the radio station.

(7) Q When it was owned by Booth American Company?

(8) A That's correct.

(9) Q All right.

(10) A When he - I guess, in my mind, at the time of the
(11) purchase, I assumed at that time that - and I was asked
(12) to be general manager by David Hicks.

(13) Q Okay.

(14) A And I suppose I was vulnerable at that time to a
(15) replacement.

(16) Q Let's back up to when you first went to work for WRBR as
(17) general manager in September of '93.

(18) A Uh-huh.

(19) Q At that time the station was owned by Booth American
(20) Company; is that correct?

(21) A That's correct.

(22) Q Who hired you to become the general manager of WRBR in
(23) September of '93?

- (24) A September of '93, there was a business arrangement that I
(25) inherited between Booth American and Pathfinder

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- (1) Communication whereby Pathfinder would provide the sales
(2) organization for both radio stations under an agreement.
(3) I don't know that there was ever a specific interview
(4) from Booth American for me to be general manager of that
(5) radio station.
(6) Q Did someone from Pathfinder interview you?
(7) A Someone from Pathfinder interviewed me to be general
(8) manager of WBYT, right.
(9) Q Who from Pathfinder interviewed you to be the general
(10) manager of WBYT?
(11) A David Hayes and John Dille.
(12) Q Who is David Hayes?
(13) A David is an employee of Pathfinder. He is director of
(14) staff development.
(15) Q At the time that you were hired for WBYT, then the joint
(16) sales agreement with Booth American was already in place,
(17) correct?
(18) A That's correct, yes.
(19) Q Did somebody tell you you would also be asked to serve as
(20) general manager of WRBR?
(21) A Again, I inherited a position of - that was occupied by
(22) Vince Ford, who was an employee of Booth American -
(23) Booth Broadcasting. He was the - at the time that I
(24) came there in September of '93, performed the duties of a
(25) general manager of both operations, and I assumed those

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- (1) duties when I went to work there in September of '93.
(2) Q And, to the best of your knowledge, you do not recall an
(3) interview with anyone from Booth American Company for the
(4) appointment to the WRBR position; is that correct?
(5) A No, not in '93.
(6) Q We know now that David Hicks and Hicks Broadcasting of
(7) Indiana, LLC, acquired WRBR sometime around April of
(8) 1994. Is that consistent with your recollection?
(9) A Yes.
(10) Q At the time that Hicks Broadcasting of Indiana acquired
(11) WRBR, did you go through an interview process to continue
(12) as general manager of WRBR?
(13) A Yes, I did.
(14) Q Who interviewed you?
(15) A David Hicks.
(16) Q Anyone else?
(17) A No.
(18) Q Where did the interview occur?
(19) A In South Bend.
(20) Q At the radio station?
(21) A At the radio station.
(22) Q How long did the interview last?
(23) A I don't remember a structure of one specific time. I
(24) remember discussions, phone conversations, more to see a
(25) compatibility, I believe, with styles of management than

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- (1) what you and I, I guess, would normally think of as an
(2) employment interview.
(3) Q Did Mr. Hicks confirm for you that he had decided to
(4) continue you as general manager of WRBR?
(5) A I feel that's an every day question. I don't feel that
(6) there is a definitive answer to that.
(7) Q So there was nothing formal where he says, "I've decided
(8) to do it"; it's every day it's up to him whether or not
(9) he continues your employment?
(10) A That's correct.
(11) Q You had served as general manager of WRBR before the
(12) acquisition, you continued to serve after the
(13) acquisition?
(14) A That's right.
(15) Q What are your responsibilities as general manager for
(16) WRBR?
(17) A To produce a good radio product at a profit.
(18) Q And do you have the same responsibility for WBYT?
(19) A I do.
(20) Q Does WRBR have a program manager?
(21) A Yes. Program manager or program director?
(22) Q I'm sorry. Program director?
(23) A Yes.

- (24) Q In fact, maybe it be helpful if you would describe for me
(25) the structure of the employees who work under you at

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- (1) WRBR. If you could, identify them and briefly describe
(2) their positions.
(3) A The program director of both radio stations is Phil
(4) Britten. He is assisted by, in programming matters, the
(5) assistant program director, Joe Turner. There is a
(6) dedicated separate sales staff for WRBR, is managed by a
(7) joint general sales manager for both radio stations. The
(8) separate staffs have been existing since July 1st, '95.
(9) There are a lot of shared duties in the program
(10) department. There are employees who mainly do only WRBR
(11) program things but who also might be available to do
(12) radio commercials in a production studio for both radio
(13) stations.
(14) Q Are those the on-air personalities?
(15) A Yes.
(16) Q What are their names?
(17) A In morning drive, Joe Turner and Karen Simmons; 9:00 to
(18) noon is Greg Richardson; noon to 5:00 is Gene Walker,
(19) and from 5:00 to 10:00, Dave Tanner.
(20) Q And the on-air personalities then primarily work for
(21) WRBR, but they're available for other duties?
(22) A That's correct.
(23) Q Your position is a shared position, correct?
(24) A That's correct.
(25) Q The program director, Phil Britten, is a shared position?

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- (1) A That's correct.
(2) Q I should start at the top. What is your allocation
(3) between your time at WRBR and WBYT?
(4) A Equal.
(5) Q What about the allocations of Phil Britten's time?
(6) A Probably 70 percent WBYT, probably 30 percent WRBR. He
(7) is also an on-air personality for WBYT.
(8) Q Are salaries allocated that way, too, that is, 70 percent
(9) to WBYT, 30 percent to WRBR?
(10) A Yes. They are coded.
(11) Q And Joe Turner, is his time allocated between the two
(12) stations?
(13) A And he would be heavy on the WRBR side.
(14) Q Are you able to give percentages?
(15) A 80/20, in favor of WRBR.
(16) Q The joint general sales manager, what's the name of that
(17) person?
(18) A Brad Williams.
(19) Q How is his time allocated?
(20) A Equally.
(21) Q How many dedicated separate sales staff work for WRBR?
(22) A Four.
(23) Q What are their names?
(24) A Beth Davis, Kathy Worland, Amos Williams, and Sarah
(25) Dille.

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- (1) Q Did Sarah Dille formerly go by the name of Sarah Dunkel?
(2) A I don't know.
(3) Q How long has Sarah Dille been separately dedicated to
(4) WRBR?
(5) A She was hired in that position, so that would make it
(6) since July of this year.
(7) Q Do you keep an allocation of your time, a record as to
(8) how much you're spending on WRBR and how much on WBYT?
(9) A No.
(10) Q Where is your office located?
(11) A At 237 Edison.
(12) Q That's at the radio station itself?
(13) A Yes.
(14) Q And is the programming done at that location, as well?
(15) A It is.
(16) Q And the broadcasting?
(17) A Yes.
(18) Q Who is the senior management representative of Hicks
(19) Broadcasting Company on site?
(20) A I would be.
(21) Q Who do you report to?
(22) A David Hicks.
(23) Q How often do you report to David Hicks?

- (24) A At least weekly.
(25) Q How often does David Hicks come physically to the radio

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- (1) station?
(2) A Once a month, if that.
(3) Q How do you report to him on a weekly basis?
(4) A Phone conversations. But he also receives weekly sales figures.
(5) Q Do your phone conversations have a regular format that you follow when you report to him?
(6) A No. No.
(7) Q Do you keep any records or notes of these phone conversations?
(8) A No.
(9) Q Do you receive any sort of an employee evaluation, a formal written evaluation of your job performance?
(10) A No.
(11) Q Have you received salary increases since you began as general manager of WRBR and WBYT in September of '93?
(12) A No.
(13) Q You have been paid the same rate throughout?
(14) A No. I have not had a salary increase.
(15) Q Has your compensation changed in some way?
(16) A Yes.
(17) Q How has it changed?
(18) A My compensation arrangement includes a base salary and a percentage of profit, so it has increased.
(19) Q Has the percentage changed or has your compensation

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- (1) increased because the stations have become more profitable?
(2) A The latter.
(3) Q What is the base salary that you're paid?
(4) A I'm paid 60,000.
(5) Q What percentage of profits do you receive?
(6) A Ten percent.
(7) Q So I'm clear, when the ownership of WRBR went from Booth American Company to Hicks Broadcasting, your salary and compensation arrangements remained the same?
(8) A That's correct.
(9) Q Does anyone, to your knowledge, evaluate the job performance of Phil Britten?
(10) A Yes.
(11) Q Is that a written formal evaluation?
(12) A No.
(13) Q Who evaluates Phil Britten's performance?
(14) A I do.
(15) Q How often do you evaluate?
(16) A Daily. But it is a built-in, automatic evaluation when the Arbitron ratings books come out every year.
(17) Q When you say built-in, automatic evaluation, what do you mean?
(18) A Our position is determined by a ranking in the market among other radio stations. Phil's job is to advance the

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- (1) two radio stations in that ranking. His report card is the Arbitron.
(2) Q Has his compensation changed since he began working at WRBR?
(3) A No, he was not originally hired at WRBR. He was originally hired at WBYT.
(4) Q Was Phil Britten there at the time you were hired?
(5) A No.
(6) Q Who hired Phil Britten?
(7) A I did.
(8) Q When did you hire him?
(9) A January, I believe, of 1994. I came in September of '93. Yes, January of 1994.
(10) Q How did you become aware of Phil Britten's availability to serve as a program director?
(11) A I was aware that he was available as an unemployed program director.
(12) Q How did you know about his availability?
(13) A I don't remember.
(14) Q Did David Hicks bring him to your attention?
(15) A I don't believe so.
(16) Q What was the process that you went through in deciding whether to hire Phil Britten?

- (24) A It was based on successes that I was aware of that he had had in Kalamazoo and in other markets. And in January of

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- (1) 1994, WBYT at that time was WLTA radio. But also knew at that time that we were probably going to change the format of the radio station. And the intensity that Phil Britten has towards winning appealed to me, and I felt that it would be very attractive to apply those talents against this new radio station that would probably happen in 1994, which is now WBYT.
(2) Q Did David Hicks have any input into the hiring decision in terms of hiring of Phil Britten?
(3) A No, he did not.
(4) Q Did you speak with David Hicks about Phil Britten prior to hiring Phil Britten?
(5) A I probably did, but I don't remember an exact conversation with him.
(6) Q When was Joe Turner hired to be the assistant program director?
(7) A July of '95. And I'm approximating that date. Joe Turner at the time was the morning half - or 50 percent of the morning team on WRBR and had a knack for program matters. And although Phil Britten had done an outstanding job at WBYT, confirmed by the rating book, he was spread too thin. He needed help. And for that reason I hired Joe Turner to be assistant program director, with a pay increase, of both radio stations.
(8) Q Did Dave Hicks have any input into the decision to hire

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- (1) Joe Turner as assistant program director?
(2) A I told him about it ahead of time.
(3) Q Did you seek his permission?
(4) A No.
(5) Q It was not required?
(6) A It was not required.
(7) Q Did Dave Hicks play any role in the hiring of any of the employees of WRBR?
(8) A I don't believe so. The one exception, perhaps, would be the concurrence of the decision to hire Brad Williams as general sales manager.
(9) Q When was Brad Williams hired?
(10) A February, March. March 1st of '95.
(11) Q And who hired Brad Williams?
(12) A That was a joint - that was a committee. That was - I hired him, but there was input from Dick Rhodes, his previous employer, from Dave Hicks, from John Dille. That would be all.
(13) Q What was the form of the input from John Dille?
(14) A Brad Williams, prior to joining the staff of these two radio stations, was the general sales manager of one of John Dille's radio stations in Elkhart, WTRC. And I knew how good he was. And I asked John, I said, "I want him at the FM's." We had a sales manager who was new at the position, had been there for seven months and was not

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- (1) doing well. But I also had to keep in mind that I was taking this talented person away from an existing property. And I did think twice about it. But my argument was, if we don't move Brad Williams up in the organization, he is so good he'll leave the organization and be approached by other broadcasters, as he had been, including those in Indianapolis. So I did ask - I didn't ask permission, but I did discuss it with John prior to making the offer.
(2) Q Did you interview Mr. Williams prior to hiring him?
(3) A Yes, I did.
(4) Q Did Mr. Dille participate in the interview?
(5) A No, he did not.
(6) Q How often does John Dille visit the radio station.
(7) A Not a regular schedule. Some weeks he might be there three days, and he might go three weeks without being there at all.
(8) Q Does John Dille provide any advice to you on the operation of WRBR?
(9) A In sales matters. We talk about the operation of WRBR.
(10) Q Just sales matters?
(11) A Yes.
(12) Q He provides no input into programming?

- (24) A No.
(25) Q He provides no input into other expenditures, staffing,

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- (1) that sort of thing?
(2) A No. Only in sales.
(3) Q Who directs the news and public affairs programming for
(4) WRBR?
(5) A I do.
(6) Q Does Dave Hicks play any role in that?
(7) A I don't think I understand the question.
(8) Q Do you consult with Dave Hicks at all in the news and
(9) public affairs programming?
(10) A I do.
(11) Q And how do you do that?
(12) A We receive our news from a news room located in Elkhart,
(13) and David Hicks was part of the conversation when we
(14) provided our news in that fashion.
(15) Q Whose news room is it?
(16) A It's located at Channel 28, BSJV television, and is a
(17) radio news room for WTRC, which is in that same location.
(18) Q WTRC is -
(19) A AM.
(20) Q Another radio station owned by Pathfinder?
(21) A That is correct.
(22) Q And so WRBR gets its news through this particular news
(23) room?
(24) A Yes.
(25) Q That is basically the news room for WTRC?

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- (1) A Well, it's the news room for all three radio stations,
(2) yes.
(3) Q When you say all three radio stations, you mean WTRC,
(4) WBYT and WRBR?
(5) A That's correct.
(6) Q Does it use the same news staff for all three stations?
(7) A We do, but not a hundred percent. Greg Richardson, who I
(8) had mentioned earlier, does news on WBYT during the
(9) morning drive, and that originates from the Mishawaka
(10) studio. But with that exception - we only have news in
(11) morning drive on the two stations in Mishawaka. And John
(12) Patrick Gail is the news presenter for WRBR, with the
(13) program content originating in Elkhart.
(14) Q Does Mr. Gail also provide the news presentation for any
(15) of the other stations?
(16) A He does for WTRC and he does a single news cast on
(17) WRBR - I mean, on WBYT at 5:20 a.m.
(18) Q Do your paychecks come from Pathfinder Communication?
(19) A They do.
(20) Q All of the other individuals who work with WRBR, are they
(21) paid on checks from Pathfinder Communication?
(22) A Yes.
(23) Q Does WRBR maintain any sort of a personnel manual or
(24) personnel policies?
(25) A Not separate.

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- (1) Q Are there personnel policies for Pathfinder Communication
(2) that apply to employees of WRBR?
(3) A That's correct.
(4) Q And are those the same policies that apply to employees
(5) of WBYT?
(6) A That's correct.
(7) Q And also to employees of WTRC?
(8) A I would assume so.
(9) Q You don't have any involvement at WTRC; is that correct?
(10) A I do not.
(11) MR. LUBBEN: That's all the questions that we
(12) have for Mr. Kline.
(13) MR. BECHER: I have no questions. We'll read
(14) and sign the transcript.
(15) (Deposition concluded at 12:39 p.m.)
(16)
(17) I hereby certify that the within and foregoing
(18) is a true and correct transcript of the testimony as
(19) given by me and corrections, if any, as made on the
(20) attached correction page.
(21) DATED this _____ day of _____
(22) 1996.
(23) _____

- (24) Steve Kline
(25)

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- (1) CERTIFICATE
(2) State of Michigan)
(2)) ss
(3) County of Kalamazoo)
(5) I, Jennifer N. Van Alstine, Notary Public
(6) in and for Kalamazoo County, Michigan, do hereby certify
(7) that the foregoing deposition of STEVE KLINE, was taken
(8) before me at the time and place hereinbefore set forth,
(9) and that said witness was duly sworn by me to tell the
(10) truth and nothing but the truth, and thereupon was
(11) examined and testified as in the foregoing deposition
(12) appears:
(13) That this deposition was taken in shorthand and
(14) thereafter transcribed by me, and that it is a true and
(15) correct transcript of my original shorthand notes.
(16) IN WITNESS WHEREOF, I have hereunto set my hand
(17) and seal this 10th day of February, 1996.
(19) _____
(19) Notary Public in and for
(20) Kalamazoo County, Michigan
(21) My commission expires May 19, 1998.